

# Congressional Record

## SEVENTY-THIRD CONGRESS, SECOND SESSION

### SENATE

MONDAY, MAY 21, 1934

(Legislative day of Thursday, May 10, 1934)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

#### THE JOURNAL

On motion of Mr. ROBINSON of Arkansas, and by unanimous consent, the reading of the Journal for the calendar days Friday, May 18, and Sunday, May 20, was dispensed with, and the Journal was approved.

#### CALL OF THE ROLL

Mr. ROBINSON of Arkansas. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Cutting	Keyes	Robinson, Ark.
Ashurst	Davis	Kling	Robinson, Ind.
Austin	Dickinson	Logan	Russell
Bankhead	Dieterich	Long	Schall
Barbour	Dill	McCarran	Sheppard
Black	Duffy	McGill	Shipstead
Bone	Erickson	McNary	Smith
Borah	Fess	Metcalf	Steiwer
Brown	Frazier	Neely	Thomas, Okla.
Bulkley	Gibson	Norbeck	Thompson
Bulow	Goldsbrough	Norris	Townsend
Carey	Hale	Nye	Vandenberg
Clark	Harrison	O'Mahoney	Van Nuys
Connally	Hastings	Overton	Wagner
Coolidge	Hatfield	Patterson	Walsh
Copeland	Hayden	Pittman	Wheeler
Couzens	Kean	Pope	White

Mr. ROBINSON of Arkansas. I desire to announce that the Senator from California [Mr. McAdoo] is absent because of illness, and that the junior Senator from Arkansas [Mrs. CARAWAY], the Senator from Illinois [Mr. LEWIS], the Senator from Iowa [Mr. MURPHY], and the Senator from Florida [Mr. TRAMMELL] are necessarily detained from the Senate.

I wish further to announce that the junior Senator from Tennessee [Mr. BACHMAN], the senior Senator from North Carolina [Mr. BAILEY], the Senator from Virginia [Mr. BYRD], the Senator from Georgia [Mr. GEORGE], the senior Senator from Tennessee [Mr. McKELLAR], the junior Senator from North Carolina [Mr. REYNOLDS], the Senator from Kentucky [Mr. BARKLEY], the Senator from South Carolina [Mr. BYRNES], the Senator from Connecticut [Mr. LONERGAN], and the Senator from Maryland [Mr. TYDINGS] are temporarily detained from the Senate at the White House in a conference with the President.

I also wish to announce that the Senator from Colorado [Mr. COSTIGAN], the Senator from Florida [Mr. FLETCHER], the Senator from Virginia [Mr. GLASS], the Senator from New Mexico [Mr. HATCH], the Senator from Mississippi [Mr. STEPHENS], and the Senator from Utah [Mr. THOMAS] are detained in an important committee meeting.

Mr. FESS. Mr. President, I desire to announce that the Senator from Rhode Island [Mr. HEBERT], the Senator from Wisconsin [Mr. LA FOLLETTE], and the Senator from Pennsylvania [Mr. REED] are necessarily absent from the Senate.

The VICE PRESIDENT. Sixty-eight Senators have answer to their names. A quorum is present.

#### ONE HUNDREDTH ANNIVERSARY OF THE DEATH OF LA FAYETTE

The VICE PRESIDENT laid before the Senate the following cablegram, which was read:

[Cablegram—Translation]

PARIS, May 18, 1934.

The PRESIDENT OF THE CONGRESS OF THE UNITED STATES,  
Washington, D.C.:

I beg you to make the French Chamber of Deputies a party to the moving and high testimony of fidelity given by the American Congress to the memory of La Fayette, whose name will remain forever the symbol of that Franco-American friendship which the magnificent part taken by the United States during the war in the common defense of right and liberty has rendered faultless henceforth.

FERDINAND BUISSON,

President of the Chamber of Deputies.

Mr. BYRD. Mr. President, I submit a resolution, which I ask to have read, and ask unanimous consent for its present consideration.

The VICE PRESIDENT. The resolution will be read.

The resolution (S.Res. 246) was read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That the thanks of the Senate are hereby extended to the French Chamber of Deputies for their expressions of friendship and good will, communicated in the message of May 18, 1934, of the President of the Chamber of Deputies.

Resolved further, That a copy of this resolution be communicated through appropriate channels to the French Chamber of Deputies.

#### A. CYRIL CRILEY

The VICE PRESIDENT laid before the Senate a letter from the Secretary of Commerce, transmitting draft of proposed legislation to relieve A. Cyril Criley, assistant trade commissioner, and a special disbursing officer of the Bureau of Foreign and Domestic Commerce, in the matter of a certain expenditure, which, with the accompanying paper, was referred to the Committee on Claims.

#### MARCH REPORT OF RECONSTRUCTION FINANCE CORPORATION

The VICE PRESIDENT laid before the Senate a letter from the Chairman of the Reconstruction Finance Corporation, submitting, pursuant to law, a report of the activities and expenditures of the Corporation for March 1934, together with a statement of loans authorized during that month, showing the name, amount, and rate of interest in each case, which, with the accompanying papers, was referred to the Committee on Banking and Currency.

#### PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate resolutions adopted by the Greenville (S.C.) Trades and Labor Council, favoring the removal of H. H. Willis as chairman of the State Cotton Textile Industrial Relations Board, and the sending into South Carolina of someone to assist in reducing machine loads in the textile industry and to put into effect the provisions of the N.I.R.A., which were referred to the Committee on Finance.

He also laid before the Senate a resolution adopted by the board of supervisors of the county of Maui, Territory of Hawaii, favoring the enactment of legislation granting statehood to Hawaii, which was referred to the Committee on Territories and Insular Affairs.

He also laid before the Senate resolutions adopted at a special session of the Municipal Council of Badajoz, Province of Romblon, and by a mass meeting of residents and vacationists of the city of Baguio, Mountain Province, P.I., pro-

testing against the levy of an excise tax on coconut oil and its products exported to the United States from the Philippine Islands, which were ordered to lie on the table.

He also laid before the Senate resolutions adopted by the municipal court of Calapan, Province of Mindoro, and the municipal and provincial governments of Zamboanga, at Zamboanga, P.I., approving and expressing appreciation for the enactment of Public Law No. 127, Seventy-third Congress, being an act to provide for the complete independence of the Philippine Islands, to provide for the adoption of a constitution and a form of government for the Philippine Islands, and for other purposes, which were ordered to lie on the table.

#### THE WORLD COURT

Mr. BARBOUR. Mr. President, I present and ask unanimous consent to have printed in full in the RECORD and appropriately referred a paper in the nature of a resolution adopted at the annual meeting of the Middle Atlantic Conference of Congregational and Christian Churches.

There being no objection, the paper in the nature of a resolution was referred to the Committee on Foreign Relations and ordered to be printed in the RECORD, as follows:

The Middle Atlantic Conference of Congregational and Christian Churches urges the Senate Foreign Relations Committee to report at once to the Senate the three World Court treaties which have been in its hands since 1930; and earnestly requests the Senate to give its consent to the ratification of these protocols before the present session adjourns, so that this issue, which has been pending before the Senate in some form for 11 years, may be settled and the 1932 pledges of both parties for adherence to the World Court fulfilled without further delay.

#### REPORTS OF COMMITTEES

Mr. DILL, from the Committee on Interstate Commerce, to which was referred the bill (S. 3266) to amend the Railway Labor Act approved May 20, 1926, and to provide for the prompt disposition of disputes between carriers and their employees, reported it with amendments and submitted a report (No. 1065) thereon.

Mr. LOGAN, from the Committee on Military Affairs, to which was referred the bill (H.R. 9123) to authorize the Secretary of War to lend War Department equipment for use at the Sixteenth National Convention of the American Legion at Miami, Fla., during the month of October 1934, reported it with amendments and submitted a report (No. 1066) thereon.

He also, from the same committee, to which was referred the bill (H.R. 363) for the relief of James Moffitt, reported it without amendment and submitted a report (No. 1067) thereon.

He also, from the Committee on Claims, to which was referred the bill (S. 762) for the relief of Teresa de Prevost, reported it with amendments and submitted a report (No. 1072) thereon.

Mr. SHEPPARD, from the Committee on Military Affairs, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

H.R. 311. An act for the relief of Martin Henry Waterman, deceased (Rept. No. 1068); and

S. 2581. An act for the relief of Charles H. Willett (Rept. No. 1069).

Mr. AUSTIN, from the Committee on Military Affairs, to which was referred the bill (S. 3199) for the relief of Thomas A. Coyne, reported it without amendment and submitted a report (No. 1075) thereon.

Mr. SMITH, from the Committee on Agriculture and Forestry, to which was referred the bill (S. 1132) to amend the Standard Baskets Act of August 31, 1916, to provide for a 1-pound Climax basket for mushrooms, reported it with an amendment and submitted a report (No. 1070) thereon.

Mr. POPE, from the Committee on Agriculture and Forestry, to which was referred the bill (S. 2462) relating to loans by the Reconstruction Finance Corporation in connection with agricultural improvement projects, reported it with an amendment and submitted a report (No. 1071) thereon.

Mr. PITTMAN, from the Committee on Mines and Mining, to which was referred the bill (S. 2836) to amend the Mining Act of May 10, 1872, as amended, reported it with an amendment and submitted a report (No. 1073) thereon.

Mr. HATCH, from the Committee on Indian Affairs, to which was referred the bill (S. 2531) to define the exterior boundaries of the Navajo Indian Reservation in New Mexico, and for other purposes, reported it with amendments and submitted a report (No. 1074) thereon.

Mr. FRAZIER, from the Committee on Indian Affairs, to which was referred the bill (S. 3626) referring the claims of the Turtle Mountain Band or Bands of Chippewa Indians of North Dakota to the Court of Claims for adjudication and settlement, reported it without amendment and submitted a report (No. 1076) thereon.

#### PROCEDURE IN IMPEACHMENT PROCEEDINGS

Mr. ASHURST, from the Committee on the Judiciary, to which was referred the resolution (S.Res. 242) authorizing the appointment of a committee to receive evidence and take testimony in impeachment trials, reported it with amendments.

#### EXECUTIVE REPORTS OF COMMITTEES

As in executive session,

Mr. LOGAN, from the Committee on Military Affairs, reported favorably the nominations of several officers in the Regular Army.

Mr. DIETERICH, from the Committee on the Judiciary, reported favorably the nomination of William Ryan, of Illinois, to be United States marshal, eastern district of Illinois, to succeed Arthur M. Burke, resigned.

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters.

The VICE PRESIDENT. The reports will be placed on the Executive Calendar.

#### BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. ASHURST (by request):

A bill (S. 3646) to amend section 938 of the Revised Statutes to vest the courts with discretion to refuse to order the return of vessels seized for violation of any law of the United States; and to amend subsection (b) of section 7 of the Air Commerce Act of 1926, as amended, to provide for the forfeiture of aircraft used in violation of the customs laws; to the Committee on the Judiciary.

By Mr. NEELY:

A bill (S. 3647) authorizing the Sistersville Bridge Board of Trustees to construct, maintain, and operate a toll bridge across the Ohio River at Sistersville, Tyler County, W.Va.; to the Committee on Commerce.

By Mr. THOMAS of Oklahoma:

A bill (S. 3648) to validate certain conveyances by Kickapoo Indians of Oklahoma made prior to February 17, 1933, where a full and fair consideration has been paid, and to provide for actions in partition in certain cases, and for other purposes; to the Committee on Indian Affairs.

By Mr. DILL:

A bill (S. 3649) for the relief of Emanuel Wallin; to the Committee on Public Lands and Surveys.

A bill (S. 3650) to amend the Emergency Railroad Transportation Act, 1933, approved June 16, 1933; to the Committee on Interstate Commerce.

By Mr. FLETCHER (by request):

A bill (S. 3651) to amend the Federal Reserve Act and sections 5197 and 5136 of the Revised Statutes, as amended by the Banking Act of 1933, and for other purposes; to the Committee on Banking and Currency.

By Mr. CLARK:

A bill (S. 3652) authorizing the coinage of a 2½-cent nickel piece; to the Committee on Banking and Currency.

A bill (S. 3653) authorizing the erection of a memorial to John D. Orear; to the Committee on the Library.

By Mr. GEORGE:

A bill (S. 3654) to authorize the disposal of surplus personal property, including buildings, of the Emergency Con-

servation Work; to the Committee on Public Lands and Surveys.

By Mr. STEPHENS:

A bill (S. 3655) to amend the act entitled "An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes", approved June 30, 1906, as amended; to the Committee on Commerce.

A bill (S. 3656) for the relief of Robert N. Stockton; to the Committee on Claims.

By Mr. ASHURST:

A bill (S. 3657) authorizing the construction of a dam on the San Pedro River, Ariz.; to the Committee on Irrigation and Reclamation.

#### CONTROL OF CHINCH BUGS

Mr. CLARK. Mr. President, I ask unanimous consent, on behalf of the Senator from Iowa [Mr. MURPHY] and myself, to introduce a joint resolution of an emergency character, which I ask may be read and lie on the table until I may have an opportunity to ask unanimous consent for its consideration.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the joint resolution will be read.

The joint resolution (S.J.Res. 126) to provide funds to enable the Secretary of Agriculture to cooperate with States in control of chinch bugs was read the first time by its title and the second time at length, as follows:

*Resolved, etc., That to enable the Secretary of Agriculture to apply such methods of control of chinch bugs as in his judgment may be essential to accomplish such purposes, in cooperation with such authorities of the States concerned, organizations, or individuals, there is hereby appropriated and made immediately available \$1,000,000: Provided, That this appropriation shall be used for expenditures of general administration and supervision, purchase and transportation of materials used for the control of chinch bugs, and such other expenses as in the discretion of the Secretary of Agriculture may be deemed necessary, including the employment of persons and means in the District of Columbia and elsewhere and rent outside the District of Columbia: Provided further, That the cooperating State shall be responsible for the local distribution and utilization of such materials on privately owned land, including full labor costs: Provided further, That in the discretion of the Secretary of Agriculture no part of this appropriation shall be expended for chinch-bug control in any State until such State has provided the necessary organization for the cooperation herein indicated: Provided further, That procurements under this appropriation may be made by open-market purchase notwithstanding the provisions of section 3709, Revised Statutes: And provided further, That no part of this appropriation shall be used to pay the cost or value of farm animals, farm crops, or other property injured or destroyed.*

The VICE PRESIDENT. The joint resolution will lie on the table.

#### STUDY OF SALES TAX

Mr. BARBOUR submitted the following resolution (S.Res. 245), which was referred to the Committee on Finance:

*Resolved, That the Committee on Finance is authorized and directed to make a full and complete study with a view to determining:*

- (1) The feasibility and advisability of a Federal sales tax on all articles, except foodstuffs, sold in the United States by the producer, manufacturer, or importer thereof, and levied with the object of allocating a proportion thereof to States which do not levy and/or collect, and which do not permit their respective political subdivisions to levy and/or collect, any production, manufacture, and/or sales tax on articles subject to such Federal tax.
- (2) What provisions or limitations should be contained in such Federal sales tax with reference to any or all such articles.
- (3) What articles should be defined as foodstuffs for the purposes of such tax.
- (4) What portion of the receipts from such Federal sales tax should be allocated to the States, and the basis and method of allocating such portion to the individual States eligible therefor.
- (5) The methods to be used in collecting such Federal tax.
- (6) The method of ascertaining the sale price of all articles subject to such tax.

In making such study the committee shall consider all factors bearing upon such a tax program, with particular reference to any revision which may be necessary in the tariff laws.

The committee shall report to the Senate, as soon as practicable, the results of its study, together with its recommendations for necessary legislation in connection with such tax program.

For the purposes of this resolution the committee is authorized to hold such hearings, to sit and act at such times and places during the sessions and recesses of the Senate in the Seventy-third and succeeding Congresses until the submission of its final report,

to employ such clerical and other assistants, to require by subpoena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, and to make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of the committee, which shall not exceed \$25,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman.

#### CHANGE OF REFERENCE

On motion of Mr. SHEPPARD, the Committee on Military Affairs was discharged from the further consideration of the bill (S. 2100) to provide for the commemoration of the Battle of Big Dry Wash, in the State of Arizona, and it was referred to the Committee on Public Lands and Surveys.

#### UTAH POWER & LIGHT CO.

Mr. KING. Mr. President, recently I received a letter from the secretary of the Consumers League of my State, an organization which is interested in questions affecting the public welfare. It is particularly interested in public utilities. The secretary requested that I have placed in the CONGRESSIONAL RECORD a statement signed by a number of citizens of my State and addressed to the directors of the Utah Power & Light Co. I intended that this statement, after having been placed in the RECORD, should be referred to the Federal Trade Commission, which has for some time been investigating certain public utilities. After communicating with the members of the Commission I am advised that they have practically completed their investigation and are now preparing a report for submission to Congress. I have also conferred with the Chairman of the Committee on Interstate Commerce of the Senate and with members of that committee, and he and they are of the opinion that the statement should be referred to such committee.

Accordingly, Mr. President, I ask unanimous consent that the statement be inserted in the CONGRESSIONAL RECORD and be transmitted to the Committee on Interstate Commerce of the Senate for consideration and appropriate action upon its part.

There being no objection, the statement was referred to the Interstate Commerce Committee and ordered to be printed in the RECORD, as follows:

[From the Salt Lake City (Utah) Tribune of Apr. 29, 1934]

APRIL 28, 1934.

#### BOARD OF DIRECTORS,

Utah Power & Light Co., City.

GENTLEMEN: The undersigned, being holders of 6 and/or 7 percent preferred stock of Utah Power & Light Co., and representing only their own stock, make the following requests of the directors of the Utah Power & Light Co., and request an acknowledgment and answer to this letter:

1. That the contract between the Utah Power & Light Co. and the Electric Bond & Share Co. for managerial and other services be canceled.

(The Utah Power & Light Co. has paid to the Electric Bond & Share Co. for such services the following amounts:

In the year 1933.....	\$105,540.35
In the year 1932.....	145,343.00
In the year 1931.....	159,163.00
In the year 1930.....	181,386.00
In the year 1929.....	166,530.00

These figures secured from the Utah Power & Light Co. and the Utah Public Utilities Commission.

These fees, we understand, are largely based on a percentage of the gross revenue received by the company. (Reference: P. 1688, Report of Federal Trade Commission of July 15, 1932.) It is contended by these stockholders that any services rendered by the Electric Bond & Share Co., if any such services are necessary, should be paid for by the Utah Power & Light Co. for actual services only and not on a percentage of gross revenue received by the Utah Power & Light Co.

2. That a proper retirement reserve be set aside each year.

(In the past the amount set up for retirement reserve has greatly varied. In the year 1931 the retirement reserve was cut to \$500,000 from \$700,000 in the previous year and a dividend of \$900,000 was paid on common stock, and in the year 1932 the retirement reserve was cut to \$300,000 and a dividend of \$150,000 was paid on common stock.

In the year 1933, retirement reserve.....	\$700,000
In the year 1932, retirement reserve.....	300,000
In the year 1931, retirement reserve.....	500,000
In the year 1930, retirement reserve.....	700,000

These figures obtained from the annual reports of the Utah Power & Light Co.)

3. That the preferred-stock holders be given the right to select three fourths of the members of the board of directors.

In the report of the Federal Trade Commission made July 15, 1932, pages 1686 and 1687, referring to the Utah Power & Light Co., the following is stated (quoting from Federal Trade Commission report):

"As successor by reorganization to Utah Securities Corporation, Electric Power & Light Corporation became and continued to be the owner of all outstanding common stock of the Utah Power & Light Co. The total inflation of \$34,330,246 is equal to all of the \$30,000,000 book value of common stock and \$4,330,246, or 16.8 percent, of the book value of preferred stock outstanding on December 31, 1930."

These stockholders have not sufficient information at this time to confirm the figures of the Federal Trade Commission and do not necessarily agree with them; nevertheless it is believed that the greatest equity in the property lies in the preferred-stock holders.

Dividends were paid on the common stock of the Utah Power & Light Co., which was owned by the Electric Power & Light Co., a subsidiary of the Electric Bond & Share Co., as follows:

1928	-----	\$1,200,000
1929	-----	1,200,000
1930	-----	1,200,000
1931	-----	900,000
1932	-----	150,000
1933	-----	None.

(This information obtained in letter dated Jan. 2, 1934, from G. M. Gadsby, president Utah Power & Light Co.) These dividends were paid without plainly disclosing this fact in the annual published report to preferred-stock holders of the company, with the exception of the year 1932, which showed dividend payment on the common stock of \$150,000.

4. That one half of the common stock now held in the Utah Power & Light Co. by the Electric Bond & Share Co. be distributed pro rata to the preferred-stock holders.

(By this means the preferred stock, with this one-half interest in the common stock, would have voting control of the property.)

We believe that the management should set aside out of earnings a reserve for the payment of dividends on the preferred stock. We have faith in the property; we favor proper and strict regulation by the public service commission, with justice and fairness to the public, to the company's employees, and the shareholders.

The company is faced with difficult economic and climatic conditions, opposition to the public-utility industry, and constant demand for lower rates. In addition, there is dissatisfaction on the part of many preferred-stock holders due to the acts of the management of the company. We believe that the people of this State are willing that a public utility receive a fair return on an investment fairly established and that the influence of the large number of resident preferred-stock holders will be great if exerted in a just cause. It is believed by these stockholders that if this corporation is directed and operated by the preferred-stock holders, 10,000 of whom reside in this territory, that, with such management, cooperation with the public and customers would be secured, which would give reasonable rates to the consumer, reasonable wages to the employees, and a reasonable return to the stockholders.

Sincerely,

ERNEST BAMBERGER, Salt Lake City, Utah.  
CHARLES E. HUISE, Eureka, Utah.  
PATRICK HEALY, Ogden, Utah.  
JOHN A. MARSHALL, Salt Lake City, Utah.

#### REGULATION OF TRAFFIC IN FOOD AND DRUGS

Mr. DIETERICH. Mr. President, I ask unanimous consent to have printed in the RECORD a memorandum in regard to Senate bill 2800, submitted by various associations and members of the cosmetic industry, relating to food, drug, and cosmetic control.

There being no objection, the memorandum was ordered to be printed in the RECORD as follows:

MEMORANDUM IN REGARD TO SENATE BILL 2800, SUBMITTED BY THE UNDERSIGNED ASSOCIATIONS AND MEMBERS OF THE COSMETIC INDUSTRY

APRIL 24, 1934.

To the honorable the Members of the United States Senate:

GENTLEMEN: We respectfully submit the following memorandum in regard to S. 2800, relating to food, drug, and cosmetic control, now before the Senate for consideration, and in doing so beg leave to say that in our judgment, and in the judgment of the cosmetic industry generally, legislation of the character proposed, if properly framed, will be of advantage to the legitimate members of the industry as well as to the public, in that it will give full protection to health and tend to relieve the public of apprehension in regard to the character of cosmetic products permitted in interstate commerce. The public is clearly entitled to the elimination of cosmetics, as well as of drugs, which are dangerous to health, and if the bill is so framed as to accomplish this purpose, it is bound to be to the lasting advantage of both the public and the industry.

There are, however, at least two particulars in which the bill in its present form is plainly unjust to the industry, without in any way adding to the protection of the public. What we have to say in addition is by way of what we hope are constructive sugges-

tions, which would, we believe, assist in effecting the purposes of the act. Concretely, our objections are as follows:

#### ADULTERATED COSMETICS

In defining what is an adulterated cosmetic in section 5 (a), the bill uses language unnecessarily involved, which may be expected to give rise to conflicting interpretation causing unnecessary hardship to the industry and interfering with the effective administration of the act. It seems obvious to us that as the only legitimate purpose of such a definition is to protect health, a provision applying to cosmetics the language of section 4 (a), which defines an adulterated drug, and as proposed at the hearing (hearings, pp. 258-261), is all that is necessary to accomplish this purpose. We suggest, therefore, that for the section as reported there be substituted the following:

"Sec. 5. A cosmetic shall be deemed to be adulterated—(a) If it is dangerous to health under the conditions of use prescribed in the labelling thereof, or if no conditions of use are thus prescribed, then under such conditions of use as are customary or usual."

Everything that is dangerous to health is included in this definition. As stated, it follows the language of the provision in regard to drugs, with the addition of the words emphasized, and it must be evident that if the language is sufficient in the case of drugs, it is sufficient in the case of cosmetics as well, for the dangers to health from the use of drugs are obviously greater than the dangers to health from the use of cosmetics, since drugs are used largely internally, and cosmetics entirely externally.

In connection with cosmetics, the head of the present Food and Drug Administration, Mr. Campbell, stated at the hearing that the definition provided by the bill of adulteration in cosmetics was "more exacting" than in the case of drug products, and in discussing the subject he referred to instances of disastrous injury which he said had resulted from the use of certain cosmetics (hearings, Feb. 27 to Mar. 3, 1934, p. 546). He seemed to assume that the prevention of such injuries in the case of cosmetics required the use of more sweeping language than that provided in the case of drugs. It is respectfully submitted however, that all of the cases which he so vividly presented were obviously due to cosmetics dangerous to health, and would therefore come within the definition of an adulterated cosmetic which we have suggested. If it is sufficient to define an adulterated drug as one that is "dangerous to health", it is also sufficient to use the same language in defining an adulterated cosmetic, and clearly in both cases the definition adequately protects the public.

Our specific objection to the provision as it now stands is that it naturally gives rise to variety of interpretations, some of which would be most injurious to the industry, and while we do not believe that such interpretation would be sustained by courts of last resort, it must be remembered that we are dealing with a criminal statute, and those engaged in the industry are entitled to have the language of the statute so clear as to leave no doubt as to its meaning. The provision of the bill as reported is as follows:

"Sec. 5. A cosmetic shall be deemed to be adulterated (a) if it bears or contains any poisonous or deleterious substance in such quantity as may render it injurious to the user under the conditions of use prescribed in the labeling thereof, or under such conditions of use as are customary or usual."

Properly construed, this is probably unobjectionable, but according to one interpretation the words "as may render it injurious to the user" may mean as may possibly render it injurious to any user, an interpretation placed upon it by Mr. Campbell himself (hearings, p. 547).

That such a provision would be arbitrary, injurious, unreasonable, and indefensible seems very clear. There are few, if any, cosmetics even within the broad definition of the bill, which includes soap and all other cleansing materials, which when applied to the skin may not in some circumstances and with some people result in irritation or injury, no matter how innocuous the substance may be. A similar definition as to drugs would probably likewise ban a large number of medicinal preparations which are obviously proper and useful.

Mr. Campbell referred to the suggestion that word "average" be used, making the paragraph read "injurious to the average user." We quite agree that such a provision would be insufficient, because the term "average" might leave outside the definition cases of cosmetics or drugs which would be injurious to a great many people, although not injurious to the "average." It is submitted that a drug or cosmetic ought not to be put under the ban, where it is not dangerous to health in itself, and only results in irritation or injury because of some hypersensitivity or idiosyncrasy in cases so rare as to be negligible. Long lists of wholesome foods and harmless drugs have frequently been suggested which are, in such cases, injurious to the user.

It is perfectly obvious that under the definition as it now appears in the bill, if interpreted as suggested, the Food and Drug Administration could bar from interstate commerce numerous cosmetics which have never been considered, and are not, dangerous to health or harmful to the user, merely on its assumption that they might be harmful to some one or more users, no matter how rare the case or remote the possibility.

The reported definition would inevitably give rise to large numbers of civil claims and administrative complaints absolutely without foundation, based on the definition and its interpretation by claims' attorneys to the effect that any user who can possibly assert a casual relation between some alleged injury and the use of a particular cosmetic is entitled not only to maintain a civil action for damages but to cause as well criminal proceedings to be insti-

tuted against the manufacturer, and to make demand upon the Secretary of Agriculture that the products be suppressed. A field would thus be opened up where the possibilities of blackmail and nuisance actions are unlimited, and legitimate industries would be exposed to wholly needless and unjustified expense and litigation.

#### MULTIPLE SEIZURES

The bill provides for seizures of any article of food, drug, or cosmetic in interstate commerce that is adulterated or misbranded, or manufactured, processed, or packed in a factory not holding a valid permit. The multiplicity of such seizures may well in certain instances destroy the business of the manufacturer or otherwise result in irreparable injury. It is submitted that the provisions of section 19 (c) which seek to avoid such a result are too narrow for the purpose. It is noted in the first place that the jurisdiction given the district courts is to restrain by injunction the institution of more than one seizure, whereas it should include jurisdiction to restrain the prosecution of more than one where more than one seizure action has been begun. Moreover, it is limited to cases of misbranding only. It seems clear that the district courts ought to be invested with power to restrain the institution or prosecution of more than one seizure action in any case where it is convinced that the public interest will not thereby be adversely affected, and that the ends of justice require it to be done. Therefore, we ask that section 19 (c) be changed to read as follows:

Further to avoid multiplicity of libel for condemnation proceedings without impairing the protection of the public or the opportunity for prompt trial on the merits of alleged violations, the district courts of the United States are hereby vested with jurisdiction to restrain by injunction as hereinafter provided the institution or prosecution of more than one seizure under section 16 where in the judgment of the court the issuing of such an injunction will not adversely affect the interests of the public and the ends of justice require such action.

It is noted that the foregoing provision does not require such action on the part of the court, but merely allows it to issue the injunction in the exercise of its judicial discretion.

#### THE REGULATORY POWER

By way of constructive criticism, it is suggested that section 10 (a) which, at present, touches only the question of tolerances and the power to determine them, might well be broadened so as to include the power to prescribe other conditions of use to safeguard the public health. By way of illustration, the manufacturer of cosmetics might be required in certain cases to give instructions and directions in regard to their use, and in some cases, require tests to avoid irritation due to hypersensitivity, as has been done in New York City.

Such a broadening of the regulatory powers would seem to be in the public interest and could be accomplished by merely adding at the end of section 10 the words "and in connection with such tolerances, or otherwise, he may prescribe other conditions for the protection of health."

#### THE COMMITTEE ON PUBLIC HEALTH

We also suggest that the efficient administration of the act would be assisted if there were added to the Committee on Public Health, as provided for in section 22, one or more members of each of the three industries subject to regulation, with the industry member or members empowered to sit with the committee only when consideration is being given to his or their particular industry. To accomplish this, it is suggested that there be added after the words "to their political affiliation", in section 22, subparagraph (6), line 5, page 37, the following: "2 members to be selected by the President from the food-producing—processing—and manufacturing industry, 2 from the drug industry, and 2 from the cosmetic industry, all of whom shall be selected for their scientific attainment and training in their respective industries. The members thus chosen from an industry shall sit as members of the committee only when regulations and matters concerning their own industry are under consideration."

It is perfectly clear that the industry members thus selected by the President would be in accord with the purposes of the act and capable of rendering constructive aid in the formulation of regulations, on account of their scientific training and familiarity with the history and conditions of the industry, and that, in many instances, they would be able to call to the attention of the Secretary and the committee conditions needing correction, which might otherwise escape notice, and to point out how such conditions could best be dealt with for the protection of the public without injury to the industry. The conclusions of a committee thus constituted would carry greater weight with the courts, and assure their more ready acceptance by the industry itself. In this way, enforcement of regulations through acquiescence would, in a large measure, be substituted in place of enforcement through prosecution.

#### ADMINISTRATION

Our final suggestion is that the bill be amended by substituting the Secretary of Commerce for the Secretary of Agriculture. In support of the proposal, we may point out, among other things, the fact that the natural growth of the Department of Agriculture has been so great as to make it impossible for the Secretary to give active attention to all its activities even in normal times, and that his duties under the Agricultural Adjustment Act and arising out of the present emergency absolutely preclude him from giving any active attention to the administration of food, drugs, and cosmetic legislation.

At the hearings objection was voiced to this proposal on the grounds that the administration of the Food and Drug Act had for 25 years been in the hands of the Food and Drug Administration, and it was not desirable to change that situation. We had no intention to suggest that the matter be taken out of the hands of that body. Our thought is that this bill puts three great industries having a volume of billions of dollars, under Governmental administration and direction and they are entitled to have the control placed in the hands of a Cabinet officer whose circumstances would permit him to give their affairs his active and personal consideration. At the hearing before the subcommittee the Secretary of Agriculture said: "My own time has been taken up so exclusively with emergency matters in the field of agriculture and national recovery that I have not had an opportunity to give this measure the degree of study and active support it deserves." As is also well known, he has been obliged to put the active conduct of processing and compensating tax matters and other functions of the greatest importance in the hands of subordinates, although the law contemplated that they should be performed by himself.

The matter of this bill was deemed a proper one for the consideration of the Committee on Commerce and not the Committee on Agriculture, and, in fact, it concerns commerce and public health alone, and is in no way concerned with the functions of the Department of Agriculture, which was created "to acquire and to diffuse among the people of the United States useful information on subjects connected with agriculture in the most general and comprehensive sense of the word, and to procure, propagate, and distribute among the people new and valuable seeds and plants."

Control of cosmetics and control of drugs lie wholly outside of the normal functions of the Department of Agriculture and the sort of control of food that is given by the present act lies outside of agricultural functions. The whole matter relates to commerce and the conduct of commerce among the States, and comes directly within the scope and purpose of the Department of Commerce, both as stated in the act creating it and in practice. Chapter 10 of title 5 of the United States Code provides for a Department of Commerce, and section 3 states that "it shall be the province and duty of said Department to foster, promote, and develop the foreign and domestic commerce, etc." Clearly, so far as foods, drugs, and cosmetics are concerned, the Government ought to have two objectives, viz: To protect the public health and to foster commerce. Neither of these matters is in any way a function of the Department of Agriculture. The interest of the farmer in the matter is identical with those who live in cities, towns, and villages. Obviously with respect to food, the primary need of protection lies with the urban and not the rural class. That the administration is now nominally in the hands of the Secretary of Agriculture is an accident. To place the supervision of the act in the hands of the Secretary of Commerce would not require the transfer of the Food and Drug Administration to his Department either physically or administratively. It is assumed that if the Secretary of Commerce were given this responsibility, the Food and Drug Administration would remain where it is now and function as it does now, with the exception that instead of being a practically autonomous body it would have the benefit of the active supervision of the head of the Department officially concerned, viz, commerce.

It is no argument against this suggestion that the Food and Drug Administration is housed in 1 of the 6 acres of buildings now used by the Department of Agriculture. The bureaus and divisions of the Interior Department, for instance, are very widely scattered.

Nor is there any reason why the Secretary of Commerce and the Food and Drug Administration should not have all the advantages of the facilities of the Bureau of Animal Industry which the Food and Drug Administration now enjoys.

Here it may be suggested that the purpose of the act probably requires the active assistance of the Bureau of Standards of the Department of Commerce, but there seems to be no practical or administrative difficulty in utilizing the functions of bureaus and divisions in different departments of the Government in order to carry out the purpose of this or any similar act. The Bureau of Public Health Service is a bureau in the Treasury Department, but there seems to be no reason why the facilities of that Bureau may not be used in the administration of the Food and Drug Act, despite the fact that it is not under the Secretary of Commerce or the Secretary of Agriculture.

The duty of exercising all the important powers listed in the bill is by its terms placed upon the Secretary of Agriculture; he is to find the facts; he is to formulate the regulations, and promulgate them, and in general he is to exercise discretionary powers of a very broad and important nature. As already stated, everybody knows that the circumstances are such as would prevent him from even giving direction to the affairs of the Food and Drug Administration.

As stated, the administration of the bill should have in mind the protection of the public and the interests of the great commerce involved in the three industries. Both of these functions belong to the Department of Commerce, in whose Secretary, it is suggested, control of the administration of this act should rest. It is noted that both of these objectives are within the scope of the Departments' activities, as shown by the Twenty-first Annual Report of the Secretary of Commerce for the fiscal year ending July 30, 1933, page IX.

The chief service of the Department of Commerce, measured by the proportion of funds so devoted, is in the interest of public

protection and safety. It has become customary to regard the Department as concerned almost exclusively with the promotion of trade. Most of its budget, however, is spent in protecting life and property. At least 65 percent of its available funds is devoted to the maintenance of lighthouses, marine and aeronautic inspection, to the prevention of mining disasters, to protection against dishonest weights and measures, and to the performance of other functions, the activities and responsibilities of which do not shrink with the general decrease of business. In times like the present keener competition for the reduced volume of business naturally results in curtailing expenditures, subjects the general standards and practices of business and transportation to unusual strain, and it is especially necessary that vigilance in the interest of public security be maintained."

It may be noted that since the close of the first 9 months of the year covered by the foregoing report, the activities of the Department of Commerce have been materially curtailed, and, in consequence, there is no reason why the direction of the administration of the proposed act could not have the personal attention of the Secretary.

We earnestly ask your careful consideration of the foregoing suggestions.

Respectfully submitted.

Allied Manufacturers of the Beauty and Barber Industry, George D. Chisholm, president, 36 West Forty-fourth Street, New York City; Beauty and Barber Supply Institute, Inc., Joseph Byrne, secretary, 11 West Forty-second Street, New York; National Hairdressers and Cosmetologists Association, Inc., Emil Rohde, president, 2322 South Grand Avenue, St. Louis, Mo.; American Cosmeticians Association, Mrs. N. McGavran, Hotel Sherman, Chicago; Chicago and Illinois Hairdressers Association, Marc Gartman, president, 139 North Clark Street, Chicago, Ill.; New York State Hairdressers and Cosmetologists Association, Emile F. Martin, president, 507 Fifth Avenue, New York City; Los Angeles Hair Dressers and Cosmetologists Association, J. Crowley, secretary, Los Angeles, Calif.; All American Beauty Culture Schools Associated, H. T. Raley, president, Raley Building, Harrisburg, Ill.; New York State Beauty Schools Association, Inc., C. B. MacNeill, vice president, 33 West Forty-sixth Street, New York; Ladies Hairdressers Association of New England, May Kehoe, president, Boston.

#### NOTE

Allied Manufacturers of the Beauty and Barber Industry includes a membership of 47 manufacturers in New York and throughout the country employing over 5,000 workers.

Beauty and Barber Supply Institute, Inc., includes 500 jobbers and distributors located throughout the country with approximately 6,000 employees.

National Hairdressers and Cosmetologists Association, Inc., represents 29,455 shops throughout the country with approximately 90,000 employees.

Chicago and Illinois Hairdressers Association represents 1,250 shops in the State of Illinois with 5,000 employees.

New York State Hairdressers and Cosmetologists Association represents 2,000 shops in the State of New York with 8,000 employees.

New York State Beauty Schools Association, Inc., includes 27 schools with over 2,000 students.

Los Angeles Hairdressers and Cosmetologists Association includes in its membership shops in Los Angeles and vicinity and the All American Beauty Culture Schools Associated represents a large number of schools throughout the country, but exact statistical information regarding these two organizations was not available at the time of going to press. The American Cosmeticians Association has a membership of about 45,000.

#### CHAIRMANSHIP OF REPUBLICAN NATIONAL COMMITTEE

Mr. ROBINSON of Indiana. Mr. President, I ask unanimous consent to have printed in the RECORD an article published in the Week, at Columbus, Ohio, of the issue of Saturday, May 19, 1934, entitled "A Chairman Skillful in Organization, Entrenched in Confidence of Business Men, Wise in Party Needs, Is Demand of the Times."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Week, Columbus, Ohio, Saturday, May 19, 1934]

A CHAIRMAN SKILLFUL IN ORGANIZATION, ENTRENCHED IN CONFIDENCE OF BUSINESS MEN, WISE IN PARTY NEEDS, IS DEMAND OF THE TIMES

The coming meeting of the National Republican Committee scheduled for the city of Chicago, Ill., on June 5, 1934, is an occasion that should arouse the intense interest of every Republican voter in the Nation.

The decision, that it is contemplated will be made at this meeting, of choosing a successor to the retiring chairman, Mr. Everett Sanders, is a matter of profound importance, not only to the future of the Republican Party but to the future peace, happiness, and prosperity of the American people.

At this juncture in the affairs of the Nation when our economic and social existence is threatened, if not actually involved, with the prospect of dissolution, leadership in politically organized defense of the sacred inheritances guaranteed under the Constitution calls for those outstanding qualifications and traits of character which radiate courage, inspire confidence, elevate and dignify

honesty of purpose in espousing a cause in the interests of the common weal.

Intensified and highly efficient organization ability, supported by the all-important powers of capable and judicious management, combine with the foregoing to provide ideal leadership. The decision, therefore, to be made at this meeting is second in importance to few, if any, which the party has been called upon to make since it came into existence.

Personal ambitions, friendships, or reward for services rendered must all be subordinated to the greater importance of organization and management through which only can success be achieved.

The situation is sufficiently precarious to justify extraordinary measures if need be. And before a decision is made the jury sitting in judgment should enrich its knowledge by a preliminary survey of exhaustive proportions. Should it appear that no one man was available who possessed all the qualifications required, but who did possess the necessary organizing ability, then it would appear that two men, whose combined qualifications would supply the required power, should be named. Success is paramount to all else.

The pressure imposed by a vivid realization of the advantage attached to an early decision should not be permitted to outweigh the more important element of capability. On the other hand, it does not appear that any necessity exists for deferring the choice of a new leader until after the November elections.

Temporizing would only serve to handicap rather than promote the program contemplated; hence, as soon as the man for the job is decided upon, his appointment should be immediately made. Nothing is to be gained by unnecessary delay, whereas much can be lost through the disadvantages that attach to the lack of organization when organized effort is essential to successful accomplishment.

Organization should be in the process of development now. The public mind is gradually awakening to the fallacies of government by theory and experiment, and there is much concern in Washington over the rising tide of criticism besetting the multitude of agencies comprising the new deal.

The failure of the administration, also, to impugn the integrity of former public officials through imperialistic modes of procedure has in no way added to their comfort. That the American people have not forsaken the traditional spirit of fair play is each day becoming more apparent.

The opportunism which contributed so largely to the favorable acceptance of the blatant theories advanced by the Democratic Party in 1932 is fast becoming recognized to have been a delusion.

Antidotes of Russian extraction, embodied in the alphabetical soup dished up by the administration, have failed to live up to the many virtues proclaimed for them, and the American people are beginning to see that it is time to call a halt. As a result the business world is in a state of chaos and bewilderment.

The underlying currents of thought are demanding a definition of purpose. From what has taken place, so far, there is little hope of any such assurance from the invisible government in power at the present time. "Planning" as used by the administration has proved to be a misnomer. A use of words that dignify the employment of practical methods, in arranging a definite series of steps for the attainment of a particular objective, has proven to be nothing more than proselytizing in an effort to delude the people with reference to the risks involved in theories, speculation, and experiment.

Hence, in the absence of judicious leadership, we are left to ponder whether we are jumping from the frying pan of new dealism and restriction to the fire of regimentation and inquisition, through new laws about to be adopted by Congress. We are simply floundering in a maze of artificialities totally devoid of sense of direction or clarity of purpose.

This challenge to our civilization must be met in no uncertain way. A most auspicious occasion for the choosing of weapons is provided by the coming meeting of the National Republican Committee. It would seem that sufficient importance attaches to the occasion to justify the exercise of every reasonable precaution. The offices of a subcommittee, for the purpose of making a survey among the outstanding leaders in all walks of life, might afford a most valuable prelude to selective action. This would naturally involve a temporary delay of possibly 2 weeks, but better 2 weeks' delay than the prospect of 4 more years of apostate philosophy of government.

Delay is not always a manifestation of weakness. On the contrary, the very essence of strength lies in the virtues of investigation and research. However, Rome must not be permitted to burn while the modern Nero fiddles. Neither must the bogey of demagogues nor political opportunists serve to sway us from the line of duty.

To build constructively and securely we must provide a sound foundation upon which our superstructure is to rest. The designs for such an undertaking stand out upon the trestle board and the economic vision and political foresight of the master builder is much in demand to interpret properly and correlate their arrangement into a towering edifice of political supremacy, in the interests of a common cause.

The gauntlet has been thrown down in the nature of an abdicated Congress, whereby the illegitimate offsprings of mental degeneracy have been foisted upon business America until the future is altogether unassuring.

With each new shuffle in the new deal comes a corresponding new joker. We are unable to determine whether trumps of today will be trumps tomorrow. We are unable to determine whether our business shall suffer extinction by suffocation, under the arbi-

tary rules of higher wages and shorter working hours, or tomorrow will find us in the arms of a legalized monopoly under the codes, or we may be cast adrift altogether to shift for ourselves.

The time has come, and the Republican Party must carry the flag, for a restoration of constituted government as defined by the Constitution of the United States of America. The American way, as evidenced by its 157 years of evolutionary progression, has achieved a world accomplishment.

We have already gone too far toward the Russian way, in experiments that possess no lasting merit; and it is high time that patriotic Americans, who are interested in the future welfare of the Nation, join hands in the erection of a beacon light—the selection of a leader—whose guiding genius will steer us clear of the shoals of ignominious disaster.

#### ELECTION OF PRESIDENT AND VICE PRESIDENT—CONSTITUTIONAL AMENDMENT

Mr. ROBINSON of Arkansas. I ask unanimous consent that the unfinished business be temporarily laid aside and that the Senate proceed to the consideration of Senate Joint Resolution 29.

The VICE PRESIDENT. Is there objection? The Chair hears none, and lays before the Senate the joint resolution.

The Senate resumed the consideration of the joint resolution (S.J.Res. 29) proposing an amendment to the Constitution of the United States providing for the popular election of President and Vice President of the United States.

Mr. NORRIS. Mr. President, I ask unanimous consent that the joint resolution be read for amendments, committee amendments to be considered first.

The VICE PRESIDENT. The clerk will read the joint resolution for amendment.

The Chief Clerk proceeded to read the joint resolution and read as follows:

*Resolved, etc., That the following be proposed as an amendment to the Constitution of the United States, which shall be valid as a part of said Constitution when ratified by the legislatures of three fourths of the States, to wit:*

"The Executive power shall be vested in a President of the United States of America. He shall hold his office during the term of 4 years and, together with the Vice President, chosen for the same term, be elected as follows: The choice of each State for President and Vice President shall be determined at a general election of the qualified electors of such State. The time of such election shall be the same throughout the United States, and unless the Congress shall by law appoint a different time such election shall be held on the first Tuesday after the first Monday in November in the year preceding the expiration of the regular term of the President and Vice President. The electors in each State shall vote directly for President and Vice President, and the laws of such State which apply to the canvassing of votes for chief executive of the State shall apply to the votes cast for President and Vice President. The laws of the State providing for the placing of the names of candidates for the office of chief executive of such State, including the names of independent candidates, upon the official ballot, if any is provided by the laws of the State, shall apply to the names of candidates, including independent candidates, for the office of President and Vice President. Each State shall be entitled to as many votes for President and Vice President as the whole number of Senators and Representatives to which the State is entitled in Congress. Each State shall certify and transmit, sealed, to the seat of the Government of the United States, directed to the President of the Senate, the result of said election. Such certificate shall contain distinct lists of all persons for whom votes were cast for President and for Vice President, the number of votes for each, and the total votes of the State cast for all candidates for President and for all candidates for Vice President. The President of the Senate shall, at a joint session of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted.

Mr. ROBINSON of Arkansas. I desire to suggest an amendment, on page 3, line 8, after the word "votes", to insert the words "by States", so that it will read:

And the votes by States shall then be counted.

Mr. NORRIS. Mr. President, I shall have no objection to that amendment; but under the unanimous-consent agreement, we are considering committee amendments first.

The VICE PRESIDENT. Let the Chair understand the parliamentary situation. The Senator from Nebraska did not ask, as the Chair understands, that committee amendments be considered first.

Mr. NORRIS. Yes; I did.

Mr. ROBINSON of Arkansas. I did not so understand.

Mr. NORRIS. Yes; but I have no objection to the amendment suggested by the Senator from Arkansas.

The VICE PRESIDENT. Without objection, the amendment proposed by the Senator from Arkansas is agreed to.

The reading of the joint resolution was resumed.

The first amendment of the Committee on the Judiciary was, on page 3, after line 8, to strike out:

The votes cast in any State for any candidate for President shall be disregarded if such votes are less than 1 percent of the total votes cast in such State for President. Each person for whom votes were cast for President in each State shall be credited with such proportion and fraction thereof of the Presidential votes of such States as he received of the total votes cast at said election for President, using for such fraction three decimals. The person having the greatest number of Presidential votes for President shall be President.

And in lieu thereof to insert:

The person having the greatest number of votes cast for President in any State shall be credited with all the Presidential votes for President to which said State is entitled. The person having the greatest number of Presidential votes for President shall be the President, if such number is 35 percent or more of the total Presidential votes cast for President.

Mr. NORRIS. Mr. President, I desire to offer an amendment to the committee amendment. On page 3, lines 22 and 23, I move to strike out the words "is 35 percent or more" and to insert in lieu thereof the words "be a majority."

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. It is proposed, on page 3, lines 22 and 23, to strike out the words "is 35 percent or more" and to insert in lieu thereof "be a majority", so as to make the sentence read:

The person having the greatest number of Presidential votes for President shall be the President, if such number be a majority of the total Presidential votes cast for President.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Nebraska to the amendment of the committee.

The amendment to the amendment was agreed to.

Mr. ROBINSON of Arkansas. Mr. President, as I understand the purpose of the amendment just offered by the Senator from Nebraska and adopted by the Senate is to substitute a majority for 35 percent?

Mr. NORRIS. That is correct. That is the only effect of the amendment.

Mr. ROBINSON of Arkansas. The Senator has become convinced it is better not to permit an election by popular vote of what may be termed a minority candidate?

Mr. NORRIS. That is true.

The VICE PRESIDENT. The question is on agreeing to the committee amendment as amended.

The amendment as amended was agreed to.

The next amendment of the Committee on the Judiciary was, on page 4, line 4, in section 2, after the word "President", to insert "or if no person shall have received 35 percent of the total Presidential votes"; in line 6, to strike out "such persons" and insert "the persons having the highest numbers of Presidential votes not exceeding 3 on the list of those voted for as President", and in line 9, after the word "immediately" to insert the words "by ballot", so as to read:

If two or more persons shall have an equal and the highest number of votes cast for President, or if no person shall have received 35 percent of the total Presidential votes, then from the persons having the highest numbers of Presidential votes not exceeding 3 on the list of those voted for as President, the House of Representatives shall choose immediately by ballot the President.

Mr. NORRIS. Mr. President, I have an amendment which I desire to submit, striking out section 2. It has been proposed to amend section 3 by two committee amendments. The amendment that is printed and on the desks of Senators provides for striking out on page 4, lines 3 to 17. That will include all of section 2. It is immaterial whether the committee amendments are agreed to or otherwise, but they will have to be disposed of first under the parliamentary situation, I presume.

The VICE PRESIDENT. Without objection, the committee amendments to section 2 are rejected.

Mr. NORRIS. Now I offer an amendment to strike out section 2, on page 4, lines 3 to 20.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. It is proposed to strike out, on page 4, section 2, as follows:

SEC. 2. If two or more persons shall have an equal and the highest number of votes cast for President, then from such persons the House of Representatives shall choose immediately the President. In choosing the President, the votes shall be taken by States, the representation from each State having 1 vote. A quorum for this purpose shall consist of a Member or Members from two thirds of the States, and a majority of such quorum shall be necessary to a choice.

If two or more persons shall have an equal and the highest number of such votes cast for Vice President, then from such persons the Senate shall choose the Vice President.

The VICE PRESIDENT. Without objection, the amendment offered by the Senator from Nebraska is agreed to.

Mr. NORRIS. That completes the committee amendments.

The VICE PRESIDENT. The question is on the engrossment and the third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading and read the third time.

The VICE PRESIDENT. The question is, Shall the joint resolution pass?

Mr. VANDENBERG. Let us have the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. BANKHEAD (when his name was called). I have a general pair with the senior Senator from Wisconsin [Mr. LA FOLLETTE]. If permitted to vote, I would vote "nay."

The VICE PRESIDENT. The Chair calls the attention of the Senator from Alabama to the fact that, this being a joint resolution involving an amendment to the Constitution, it requires a two-thirds vote to pass it.

Mr. FESS. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. FESS. Do pairs count on a question of this kind?

The VICE PRESIDENT. It would require two pairs in the affirmative against one in the negative.

Mr. METCALF (when his name was called). I have a general pair with the Senator from Maryland [Mr. TYDINGS]. Not knowing how he would vote, I withhold my vote. Were I permitted to vote, I should vote "nay."

The roll call was concluded.

Mr. TOWNSEND (after having voted in the negative). I inquire if the senior Senator from Tennessee [Mr. McKELLAR] has voted?

The VICE PRESIDENT. That Senator has not voted.

Mr. TOWNSEND. I have a general pair with that Senator. Not knowing how he would vote, I withdraw my vote.

Mr. FESS (after having voted in the negative). I have a general pair with the senior Senator from Virginia [Mr. GLASS]. I am not advised how he would vote. Therefore, I must withdraw my vote.

Mr. HATFIELD (after having voted in the negative). I inquire if the senior Senator from Florida [Mr. FLETCHER] has voted?

The VICE PRESIDENT. That Senator has not voted.

Mr. HATFIELD. I have a general pair with that Senator. Not being able to obtain a transfer, I withdraw my vote.

Mr. METCALF. I understand that under the ruling of the Chair I am at liberty to vote. Therefore, I vote "nay."

Mr. McNARY. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. McNARY. I submit the inquiry to justify the vote just cast by the Senator from Rhode Island. A number of Senators have general pairs. This being an amendment to the Constitution requiring a two-thirds vote, is a Senator having a single pair at liberty to vote on a question of this kind?

The VICE PRESIDENT. The pairs of Senators are a matter of conscience with them. The Chair, as a parliamentarian, could not answer as to the technique of their consciences, as to whether or not they feel they should

withhold their votes. Ordinarily, 2 affirmative votes are required for 1 negative vote in case of a general pair on a question requiring a two-thirds vote.

Mr. McNARY. The question arises with me not so much as a matter of conscience as a matter of the rules of the Senate.

The VICE PRESIDENT. There is no rule of the Senate concerning the matter. The Chair repeats that, in his opinion, it is a matter of conscience on the part of the various Senators concerning their pairs with their colleagues.

Mr. McNARY. I feel quite indifferent about the matter; but the usual practice has been that pairs are assumed to cover legislative measures, and that when a constitutional question arises, pairs of two to one being required, the parties to a pair are absolved from it.

The VICE PRESIDENT. That would be the ordinary construction of the Chair, though, as he repeats, some Senator might think he was obligated to his pair in his absence, and withhold his vote.

Mr. NORRIS. I desire to announce the absence from the city of the Senator from Wisconsin [Mr. LA FOLLETTE]. If present, he would vote "yea."

Mr. DIETERICH. I desire to announce the absence of my colleague [Mr. LEWIS] on important official business.

Mr. ROBINSON of Arkansas (after having voted in the affirmative). I have a general pair with the Senator from Pennsylvania [Mr. REED]. I have been advised that I am at liberty to vote. However, I transfer my general pair with the Senator from Pennsylvania to the Senator from Iowa [Mr. MURPHY] and will let my vote stand. I am advised that the Senator from Iowa would vote "yea" if present.

Mr. FESS. Mr. President, on the same basis I feel that I am at liberty to vote, although I do not know how my pair would vote if present. I therefore vote "nay."

Mr. HATFIELD. In keeping with the statement made by the Senator from Arkansas [Mr. ROBINSON] and also in keeping with the explanation made by the Senator from Ohio [Mr. Fess], I vote "nay."

Mr. NORRIS (after having voted in the affirmative). In order that I may make a motion to reconsider, I change my vote from "yea" to "nay."

Mr. ROBINSON of Arkansas. I regret to announce that the Senator from California [Mr. McADOO] is detained from the Senate on account of illness.

I desire further to announce that the Senator from Tennessee [Mr. BACHMAN], the Senator from Kentucky [Mr. BARKLEY], the Senator from North Carolina [Mr. REYNOLDS], the Senator from South Carolina [Mr. BYRNES], the Senator from Connecticut [Mr. LONERGAN], the Senator from Georgia [Mr. GEORGE], the Senator from Tennessee [Mr. McKELLAR], the Senator from North Carolina [Mr. BAILEY], the Senator from Virginia [Mr. BYRD], and the Senator from Maryland [Mr. TYDINGS] are detained at a conference at the White House.

The Senator from Colorado [Mr. COSTIGAN], the Senator from Florida [Mr. FLETCHER], the Senator from Virginia [Mr. GLASS], the Senator from New Mexico [Mr. HATCH], the Senator from Mississippi [Mr. STEPHENS], and the Senator from Utah [Mr. THOMAS] are detained at an important committee meeting.

The Senator from Arkansas [Mrs. CARAWAY], the Senator from Oklahoma [Mr. GORE], the Senator from Iowa [Mr. MURPHY], and the Senator from Florida [Mr. TRAMMELL] are necessarily detained from the Senate.

Mr. FESS. I desire to announce that the Senator from Rhode Island [Mr. HEBERT] and the Senator from Pennsylvania [Mr. REED] are necessarily absent. I am advised that the Senator from Pennsylvania would vote "nay" if present.

The Senator from Connecticut [Mr. WALCOTT] is detained from the Senate on official business. If present, he would vote "nay."

The Senator from California [Mr. JOHNSON] is detained on official business. I am informed that if present he would vote "yea."

The roll call resulted—yeas 42, nays 24, as follows:

## YEAS—42

Adams	Couzens	McCarran	Russell
Ashurst	Cutting	McGill	Schall
Black	Dill	Neely	Sheppard
Bone	Duffy	Norbeck	Shipstead
Borah	Erickson	Nye	Thompson
Brown	Frazier	O'Mahoney	Van Nuys
Bulkley	Harrison	Overton	Wagner
Bulow	Hayden	Pittman	Walsh
Clark	King	Pope	Wheeler
Coolidge	Logan	Robinson, Ark.	
Copeland	Long	Robinson, Ind.	

## NAYS—24

Austin	Dieterich	Hatfield	Patterson
Barbour	Fess	Kean	Smith
Carey	Gibson	Keyes	Stelwer
Connally	Goldsbrough	McNary	Thomas, Okla.
Davis	Hale	Metcalf	Vandenbergh
Dickinson	Hastings	Norris	White

## NOT VOTING—30

Bachman	Costigan	La Follette	Stephens
Bailey	Fletcher	Lewis	Thomas, Utah
Bankhead	George	Loneragan	Townsend
Barkley	Glass	McAdoo	Trammell
Byrd	Gore	McKellar	Tydings
Byrnes	Hatch	Murphy	Walcott
Capper	Hebert	Reed	
Caraway	Johnson	Reynolds	

The VICE PRESIDENT. On this question the yeas are 42, the nays are 24. Two thirds of the Senators present not having voted in the affirmative, the joint resolution is rejected.

Mr. NORRIS subsequently said: Mr. President, I ask unanimous consent that tomorrow, at 3 o'clock p.m., the Senate proceed to vote without further debate upon the motion to reconsider the vote by which Senate Joint Resolution 29 was rejected, and that if the vote shall be reconsidered the Senate shall then vote without further debate upon the passage of the joint resolution.

The PRESIDING OFFICER (Mr. LOGAN in the Chair). Is there objection to the unanimous-consent request of the Senator from Nebraska?

Mr. McNARY. Mr. President, I think one or two Members on this side of the aisle opposed the joint resolution when it was brought up a few days ago. They are not present. Personally, I have no objection to the request; but in the absence of Members of the Senate who opposed the joint resolution, I should not want to give unanimous consent to proceed to vote again on it without further debate.

Mr. NORRIS. Let me say to the Senator that I have no desire myself to have that done. I include that in the request only because I realize that Senators in charge of the unfinished business do not want delay, and I have assumed that no one wants to debate the question further, because it has been debated. I can, of course, make the motion at any time within 3 days without unanimous consent. I simply submitted the request for unanimous consent in my desire not to interfere with the consideration of the unfinished business any more than necessary.

Mr. ROBINSON of Arkansas. Mr. President, my understanding is that the Senator from Nebraska has requested that at 3 o'clock tomorrow the unfinished business be temporarily laid aside, and that the Senate proceed at once to vote on a motion to reconsider, and, if that motion shall prevail, to vote without further debate on the joint resolution itself.

Mr. McNARY. I understand that perfectly. The Senator has made a very full and complete explanation. I quite appreciate what the Senator desires. Only a few Members of the Senate are present, however; and I cannot consent to a vote on reconsideration and on the joint resolution itself without debate in view of the possibility that some Senator may wish to debate it. I suggest that the Senator renew his request tomorrow, when there will be a larger attendance of Senators.

Mr. NORRIS. Then I will submit another request for unanimous consent. Several Senators have said that they are not familiar with the joint resolution in its amended form. I ask unanimous consent that Senate Joint Resolu-

tion 29, as amended, and as we voted upon its final passage, be printed in bill form, and be printed in the RECORD so that Senators may be apprised of its exact form.

Mr. McNARY. I think that is quite proper.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it so ordered.

The joint resolution as amended is as follows:

Joint resolution proposing an amendment to the Constitution of the United States providing for the popular election of President and Vice President of the United States.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two thirds of each House concurring therein), That the following be proposed as an amendment to the Constitution of the United States, which shall be valid as a part of said Constitution when ratified by the legislatures of three fourths of the States, to wit:*

"The Executive power shall be vested in a President of the United States of America: He shall hold his office during the term of 4 years and, together with the Vice President, chosen for the same term, be elected as follows: The choice of each State for President and Vice President shall be determined at a general election of the qualified electors of such State. The time of such election shall be the same throughout the United States, and unless the Congress shall by law appoint a different time such election shall be held on the first Tuesday after the first Monday in November in the year preceding the expiration of the regular term of the President and Vice President. The electors in each State shall vote directly for President and Vice President, and the laws of such State which apply to the canvassing of votes for chief executive of the State shall apply to the votes cast for President and Vice President. The laws of the State providing for the placing of the names of candidates for the office of chief executive of such State, including the names of independent candidates, upon the official ballot, if any is provided by the laws of the State, shall apply to the names of candidates, including independent candidates for the office of President and Vice President. Each State shall be entitled to as many votes for President and Vice President as the whole number of Senators and Representatives to which the State is entitled in Congress. Each State shall certify and transmit, sealed, to the seat of the government of the United States, directed to the President of the Senate, the result of said election. Such certificate shall contain distinct lists of all persons for whom votes were cast for President and for Vice President, the number of votes for each, and the total votes of the State cast for all candidates for President and for all candidates for Vice President. The President of the Senate shall, at a joint session of the Senate and House of Representatives, open all the certificates, and the votes by States shall then be counted. The person having the greatest number of votes cast for President in any State shall be credited with all the Presidential votes for President to which said State is entitled. The person having the greatest number of Presidential votes for President shall be the President, if such number be a majority of the total Presidential votes cast for President. The foregoing provisions shall apply to the election of Vice President, but no person constitutionally ineligible to the office of President shall be eligible to that of Vice President.

"Sec. 2. If two or more persons shall have an equal and the highest number of votes for President, then the House of Representatives shall choose immediately, by ballot, one of them for President. If two or more persons do not have an equal and the highest number of votes for President, and if no person have a majority of such votes, then from the persons having the three highest numbers of such votes the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having 1 vote. A quorum for this purpose shall consist of a Member or Members from two thirds of the States, and a majority of all the States shall be necessary to a choice.

"If no person has a majority of the votes for Vice President, then from the persons having the two highest numbers of such votes the Senate shall choose the Vice President. A quorum for this purpose shall consist of two thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice.

"Sec. 3. Congress may by law provide what procedure shall be followed and the method of obtaining a decision in case there shall be more than one certificate of Presidential votes from any State, or in case of any other dispute or controversy that may arise in the counting and the canvassing of the Presidential votes by said joint session of the Senate and House of Representatives.

"Sec. 4. Paragraphs 1, 2, and 3 of section 1, article II of the Constitution, and the twelfth amendment to the Constitution are hereby repealed."

Mr. NORRIS. I now move to reconsider the vote by which Senate Joint Resolution 29 was rejected, and give notice that I shall call up the motion at 3 o'clock p.m. tomorrow.

The PRESIDING OFFICER. The motion will be entered.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its clerks, announced that the House had concurred in Senate Concurrent Resolution No. 17, as follows:

*Resolved by the Senate (the House of Representatives concurring), That the President be requested to return to the Senate the bill (S. 3355) to authorize the coinage of 50-cent pieces in commemoration of the two hundredth anniversary of the birth of Daniel Boone, to correct an error therein.*

## ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (S. 2845) to extend the provisions of the National Motor Vehicle Theft Act to other stolen property, and it was signed by the Vice President.

## RECIPROCAL TARIFF AGREEMENTS

The Senate resumed the consideration of the bill (H.R. 8687) to amend the Tariff Act of 1930.

Mr. FESS obtained the floor.

Mr. LONG. Mr. President, I rise to a parliamentary inquiry. I do not want to lose my rights. When the Senate took a recess on Friday, I had the floor, and yielded to other Senators. I am perfectly willing that the Senator from Ohio shall take my place and make his speech, but I do not want to lose my right to complete my speech.

Mr. ROBINSON of Arkansas. Mr. President, it is perfectly apparent that a Senator cannot retain the floor under the circumstances.

The VICE PRESIDENT. No; the Senator cannot retain the floor. The Senate has transacted business since last Friday concerning the joint resolution just disposed of, and undoubtedly no Senator has a preferential right to recognition.

Mr. LONG. I do not think we ought to be quite so technical as that. I yielded on Friday in order that the Senate might take a recess.

Mr. ROBINSON of Arkansas. The Senator has a right to resume the floor. There is no question about that.

Mr. LONG. Very well.

Mr. FESS. Mr. President, last Friday I had occasion to make some remarks on the history of the much-disputed tariff question, and stated at the time that at a later date I should claim the floor to discuss the pending measure. That is my purpose in rising to address the Senate.

The trying and protracted period of a world-wide economic depression may be compared with an epidemic that ravages mankind throughout a large portion of the world. At first there are various speculations as to the cause of the trouble and the best methods of effecting a cure. As the disease grows in momentum and magnitude, hope gives way to panic, and established and approved methods are abandoned for hastily conceived nostrums and cure-alls. The country becomes a laboratory of experimentation, and despair prompts us to grasp at any new remedy that promises some degree of relief. Whatever may be claimed as justification for reliance upon experiments and panaceas during a crisis, these should cease when the emergency passes. Important as is a return of economic recovery, desirable as is immediate return of prosperity, vastly more important and desirable is the maintenance of our Constitution and the institutions developed under it.

Crises are not new and not confined to our own country. In our past they have been more or less periodic and due to disturbances of economic forces in which speculation has played a part, and at times legislation has been the occasion. The remedy lies in the correction of faulty legislation where that is the cause and to resumption of normal processes where speculation is the cause. The crisis of 1817 was an inevitable result of the speculation that followed the War of 1812. That of 1837 resulted from the speculative movement in western land purchases. That of 1857 was largely due to the Walker tariff of 1846, only deferred by foreign demands for our goods in China and the countries engaged in the Crimean War. That of 1893 was likewise largely due to tariff tinkering, as was the case of that of 1913, only to be relieved by the World War.

In all of these cases the sound remedy was followed—the resumption of the normal processes of economic law to relieve results of the violation of the forces of the laws of economic growth. True, in every case there were theoretical reformers urging various nostrums as cure-alls, but not until 1933-34 was there any yielding by the Congress to any such nostrums.

The depressing effects of the present crisis reached us in 1929, although the economic disturbance had affected Europe the year before. It resulted from a world-wide convulsion in the play of economic forces to win the war, resulting in the death of 15,000,000 of the world's best, when 25,000,000 more seriously, if not, totally disabled; in the devastation and destruction of hundreds of billions of dollars of property, and in the mortgaging for the future of much of the world's existing property, heavily debt burdened. The major cause of the all-embracing economic break-down is found in the all but complete abandonment of all sound principles of business and government, which will not and cannot be relieved by further violation of the laws of a sound economy such as has been inaugurated, the failure of which we all recognize, if we do not admit. As in the past, and as in the present as viewed in other countries, notably the British Empire, if not the quickest, the surest method is to permit the normal laws of trade to operate, free from the deadening uncertainty of experimentation with the laws of economic progress. Had the foibles of the new deal been avoided and the operation of normal processes of trade been permitted to continue as they were operating in the last half of the year 1932, we would doubtless have been today far in the lead of Great Britain's substantial comeback, reached without resort to fantastic theories foisted upon us in the program of experimentation. Even as it is, in spite of these artificial stimuli, some gains are to be noted.

There is accumulating evidence throughout the world that the depression has run its course, and that the crisis will pass if interferences with normal processes are but removed. Responsibility for the amelioration of human suffering and distress has not ceased, and will continue in greater or less degree until that distant time we call the millennium shall come.

There has never been a time when the relief of human distress and of human want has not engaged the thoughtful and earnest endeavor of civilized nations.

There have been notable instances of individual effort, of associated activities of public-spirited groups and organizations, and of national and governmental assistance. Individual and organized beneficences are primarily a local function, and doubtless government participation in relief activities where local resources are exhausted must continue throughout our day and through generations yet unborn. "The poor ye have always with you"; and the poor and suffering must always be a fundamental concern of individuals and of organized society. But this does not mean that a program devised in times of panic and despair to cover an emergency period must necessarily be applied as a permanent policy, even though the patient is on the road to recovery. It does not mean that economic experiments initiated in times of panic should be continued when and if the crisis is passing, or that emergency should be continued to be cited as an excuse merely for economic or fiscal experimentation. Emergency must not be allowed to become the vehicle on which revolutionary or unconstitutional measures are to become permanent policies.

That the world, especially beyond our borders, is recovering from the economic distemper that has afflicted it for 4 years or more, is daily becoming more evident. The nations making the greatest progress are those least affected by artificial remedies. Reliance upon emergency measures and economic and fiscal experiments as shown in these countries in contrast with our own is a hindrance rather than a help. Such nostrums can no longer have the excuse of necessity or of expediency. As might have been expected when recovery is viewed as a world situation the improvement has been first apparent and has proceeded further in

the countries which were first to feel the effects of the depression and unhindered by artificial stimuli. Economic and industrial improvement is shown in figures of industrial production compiled by the statistical section of the League of Nations for the following countries: Japan, United Kingdom, Canada, Belgium, France, and Germany.

Taking the indexes of industrial production as compiled by these countries and reduced by the League of Nations to a common base by which the average production of 1928 is taken as 100, the index of Japan, at the end of 1933, had advanced 39 percent above the level of 1928. The indexes of the other countries were still below the 1928 level, but the percentages which they had regained of their extreme losses below the level of 1928 were, for the United Kingdom, 92 percent; for Canada, 43 percent; for Belgium, 42 percent; for France, 40 percent; and for Germany, 35 percent. Compared with these figures, the percentage of recovery for the United States, according to the Cleveland Trust Co. Business Bulletin, April 15, 1934, is 32 percent. It is true that we cannot tell how much of this increase is due to Government expenditure, which is more properly for relief than for recovery. Obviously it must be a large percentage.

It will be noted that this larger degree of recovery up to the end of 1933 in the countries mentioned—Japan, United Kingdom, Canada, Belgium, France, and Germany—than in the United States for the same period, has been brought about without resort to the experimental or emergency legislation which has been put into effect in this country. It would appear, therefore, that what we need at this time in America, instead of resorting to the laboratory of experimentation, is a calm appraisal of national and international conditions and an abandonment of the prevalent practice of citing an emergency as the reason for unprecedented experiments in legislation as is here proposed, as the *sine qua non* of economic recovery.

It is this economic emergency which is given as the reason for each and every item of the program of the new deal and is now being urged as the ground for the passage of the pending measure, H.R. 8687, to delegate to the President the power to negotiate reciprocal trade agreements. In section 350 (a) of the pending bill it is described "as a means of assisting in the present emergency, in restoring the American standard of living, in overcoming domestic unemployment, and the present economic depression."

In his testimony before the Ways and Means Committee on March 8, 1934, the Secretary of State cited the existing great emergency as the reason for requesting this extraordinary grant of power to the executive branch of the Government.

I wish here and now to say that, while I cannot agree with the Secretary on his tariff views, all who know him will freely concede to him great respect for his consistency of views. He is one of the few outstanding American statesmen who still resist the protective tariff theory, and consistently plead for the principle of limiting tariff duties to revenue purposes.

#### HULL AMENDMENT TO TARIFF LAW

When we were discussing the act to amend the tariff law of 1930, Secretary Hull, then Senator, offered the following amendment:

The Government of the United States agrees not to increase its protective tariffs above the present level for a period of 2 years, or to create new barriers or impediments to trade, provided other nations shall agree to pursue a like policy.

When before the committee on the pending proposal, and after referring to the fact that "we have seen in every part of the world despotism, dictatorships, and autocracies spring up overnight", the Secretary of State said:

My observation after rather careful investigation has been that the mainspring of the moving influence of those revolutions has been people out of work, people who have become hungry, without enough clothes, without enough shelter, and other people have been hurled headlong into bankruptcy and are mad at everybody and everything, including their own institutions of government. We are not going to fall into that soon, but you could easily become victims of those things in other parts of the world, and for

that reason I would invoke your attention long enough to deal with this emergency situation, the acuteness of which I cannot over-emphasize. (P. 17, Ways and Means Committee Hearings.)

Again, the Secretary of State said in his testimony before the Ways and Means Committee, and other spokesmen of the administration said substantially the same thing:

It is manifest that unless the Executive is given authority to deal with the existing great emergency somewhat on a parity with that exercised by the executive departments of so many other governments for purposes of negotiating and carrying into effect trade agreements, it will not be practicable or possible for the United States to pursue with any degree of success the proposed policy of restoring our lost international trade.

Mr. President, I wonder whether the words of the Secretary of State are properly understood when he makes the statement—

It is manifest that unless the Executive is given authority to deal with the existing great emergency somewhat on a parity with that exercised by the executive departments of so many other governments \* \* \* it will not be practicable or possible for the United States to pursue with any degree of success the proposed policy of restoring our lost international trade.

In appraising this statement it should not be overlooked that over 300,000,000 people of Europe and Asia, constituting the populations of many of the countries with which we are to bargain, are today under dictators. To give the President of the United States commensurate power with such dictators for bargaining is proposing an abandonment of American ideals never before suggested in high circles.

At the hearing held by the Finance Committee on April 26 the Secretary of State said:

We are now faced with a panic and extraordinary measures are needed to meet the emergency. This is an emergency measure.

While it is admitted that we have unemployment today in our cities in large proportions but slightly relieved beyond Government stimulation, an examination of the recovery of other parts of the world would argue against, rather than for, such radical departures as here proposed.

The proposition before us, as stated by the spokesman of the administration, can be summed up in these words: That an emergency exists; and that the President must be given authority somewhat on a parity with that exercised by the executive departments of so many foreign governments for the purpose of negotiating trade agreements, in order that we may restore our foreign trade.

That the world has been engulfed in a great depression is known to all men. That signs are multiplying that the world is recovering from the depression is apparent to students of world affairs and observers of world conditions. In some aspects the emergency in our own country seems to be passing. To deny that we are emerging from the emergency is to deny the efficacy of the recovery program of the President which Senators on the other side of the aisle pressed so earnestly for adoption, and which many on this side supported in order that those having the responsibility of leadership in the crisis might have authority to act. If, in accordance with the contention of the Democrats, their policy is effective, it becomes the duty and the obligation of the legislative branch of the Government to scrutinize with greater care the remedies proposed by the Chief Executive and his advisers.

No one disputes the statement of the Chairman of the Finance Committee in presenting the bill to the Senate that the commerce of the world has materially declined, especially since 1929; and it is equally true that domestic trade has declined. In fact, the relative decline in domestic trade has been greater than the decline in foreign trade. Let Senators not forget that improvement in domestic business is the surest and soundest method of obtaining improvement in our foreign trade. Advancement of foreign trade as against domestic trade is a positive injury to our people. On the other hand, a prosperous domestic trade is the first essential of a prosperous foreign trade. To state it differently, a prosperous America would be our greatest possible contribution to the prosperity of the world. This should be our first and foremost concern in all our legislation, both of an emergent and permanent character, the opposite of

which, when viewed from results, is emphasized in the pending bargaining-tariff proposal.

If we will but give domestic business a chance, we shall be definitely setting our faces toward recovery and the return of more prosperous times. Since 1928 in the outside world, and 1930 in our own country, production has been greatly interrupted. It is now showing a normal and worldwide advance toward improved conditions. It should not be further interrupted by hazardous and unwise experiments, and we should definitely avoid using the occasion for embarking on dangerous and unconstitutional proposals. It is the belief of the best thought of America that all basic elements of the country—agriculture, manufacturing, transportation, banking resources, mining, managerial ability, and skilled labor—now temporarily interrupted, will emerge if given a chance free from governmental interference.

Authorities on trade movements inform us that due to slowing up of production our inventories are low, that we now have greater shortages of goods and construction that our people need and want and greater accumulations of money and credit seeking employment than have ever existed before in this or any other country.

Mr. President, the significance of those facts must not be overlooked. With low inventories of goods, the people want and need, due to a slowing down for 4 years, and with the largest accumulation in history of money and credit idle and willing to work, nothing is necessary for resumption of business except confidence, which never can come except through the removal of the uncertainty which is brought about by this program of experimentation.

Improvement will be insured if we will but remove the obstacle of uncertainty involved in a program of artificial nostrums. The removal of uncertainty is the most important determinant of revival of business to absorb unemployment.

I cite as an example a recent statement of the Cleveland Trust Co., which is recognized as an authority because of the careful analyses it makes of economic currents:

The index of industrial production of this bank was 29 percent below normal in January, 26.3 in February, 23.6 in March, and the April estimate is 21.7.

Showing a gradual improvement in the industrial situation as reflected by the analysis of that bank:

Further improvement seems indicated for May. April increases were largest in iron and steel, textiles, lumber, automobiles, and coal.

All of those are basic commodities.

The Department of Labor estimates that manufactures have absorbed two and three quarters millions of workers more than a year ago, and that there has been an increase of \$79,000,000 in weekly wages. General Johnson puts the figure at 3,000,000 reemployed through the operation of the National Recovery Administration. Of course, these wage increases are in reality a restoration of actual wage cuts incidental to the new monetary policy, and must be interpreted in the light of currency revaluation reducing the dollar to 59 cents, which tended to reduce the purchasing power of the previous wage scale. Under more normal and less artificial and arbitrary methods of recovery, gains might have been and most certainly would have been less nominal and more real.

Bank clearings are offered as another criterion of domestic improvement. They recorded on April 21 of the present year the largest weekly total since January 1932. After allowing for technical differences in the periods compared, bank clearings this year reflect some gains in business over last year. Many cities reported larger clearings than a year ago, an increase being noted in New York, Boston, Philadelphia, Chicago, Pittsburgh, Cleveland, and some other western and southern points. To what extent this showing is due to Government stimulation by public expenditures is difficult to analyze. What proportion is relief and what recovery is, of course, quite important but difficult to determine.

Production of durable goods, the key log to the jam, has not been satisfactory, but has shown some increase. Pro-

duction of nondurable goods has increased slightly more than seasonally in March and the first half of April 1934, according to the monthly report of the Conference of Statisticians in Industry of the National Industrial Conference Board. Whether there is any substantial improvement beyond Government stimulation is still a question. Notable gains were reported, especially in the automobile industry; some gains in building and engineering construction, which would be reflected in gains in steel and iron; bituminous coal mining; electric power production; and textile apparel manufacturing. What percent, if any, of this increase is normal and what is artificial stimulus has not as yet been analyzed. It is the belief of management that it would have been greater if permitted to pursue normal processes free from the uncertainty of experimentation. Some gains are also noted in the production of passenger cars and trucks; and exports of motor vehicles substantially increased in February over a year ago.

Statistics appearing during the week of April 21 indicated a rising business tendency, according to Moody's index figures, for freight-car loadings, electric-power production, and steel-ingot output. It is believed that, given a chance, with greater certainty in the future, less experimentation, and less governmental interference, we will see, as in England and Canada, a substantial turn toward recovery.

Mr. President, it should be noted that in the last 2 weeks, from the index figures of same agencies, there has been something of a recession instead of an increase. It is, however, rather difficult to analyze.

The future analyst in dealing with this period of the new deal will point to the economic adventures as attempted artificial stimuli on behalf of reforms involving serious economic consequences.

He will not only emphasize the danger of such artificial nostrums as relief, but will also direct attention to penalizing legislation, written on the impulse of the moment, which ultimately must result not only in disappointment but in disaster, so well illustrated by what we have been passing through since the 4th of March 1933, in the form not only of deficits, and increased taxes to meet them, but many other radical suggestions. No thoughtful student can view the recent trend in taxation without concern.

That principle of taxation which applies the burden according to ability to pay is sound within limits. When it reaches the point of penalizing the taxpayer, it will defeat itself as a revenue source and result in an actual loss. This is demonstrated by experience in the history of taxation. It is the principle known in political economy as "diminishing returns." In the field of customs duties it is well demonstrated. Rates up to a given scale insure increased revenue; beyond that scale they mean a decrease of revenue. A rate of taxation which discourages enterprise will reduce the revenue. That is why a balanced Budget, not by increasing taxes but by reducing Government expenses, is essential. If it must depend upon constant increase of the tax burden, it will defeat itself. All Government obligations must in the final analysis be met by this source, unless repudiation is resorted to, which makes a growing deficit a continuous obstacle against business revival.

The outlook for the payment of taxes is not brightened by a program of Government competition with industry on the one hand and penalizing legislation on the other. Unless there is some assurance that the profits of industry are not to be totally absorbed by tax demands, there will be no enlargement of an existing industry nor the development of a new industry. The contention from high circles for a redistribution of wealth through the form of taxation is a deterrent to recovery. The demand from like sources for the elimination of the element of profit from investment on behalf of business as a philanthropy is a further deterrent. Investment at best is a risk fraught with grave concern. If the Government policy dictates the elimination of profit on behalf of philanthropy, then it must guarantee against loss, else business is wiped out and revenue lost.

It is obvious that the investor who is under Government compulsion through exacting taxation to conduct his busi-

ness on altruistic lines by eliminating the element of profit will decline to make the effort. The constant threat on the part of certain influential factors of the administration that if the manager declines to embrace the expensive plans of the new deal, which demand additional taxes, his business will be taken over and run by the Government, compels him to stop, look, and listen.

This cumulation of adverse forces antagonistic to a revival of business is one of the greatest obstacles against normal recovery through which enterprise must employ labor, and the Government may be compelled to continue its ominous program inaugurated on Government expenditure, already resulting in a shocking state in the Treasury, which, if not halted, will make the Government the chief employer of labor, with all the frightful consequences involved in political management of industry.

This situation accounts for the rumor that a number of men with large incomes have recently said that rather than see their earnings swallowed up by the Government in taxes, they would take things easy. The danger of this statement arises from the fact that it is not so much a matter of choice as compulsion. While the rumor will be criticized by the element which is throttling the thrifty and punishing the frugal and industrious in a desire to soak the rich, the country is less interested in a criticism of a practice than it is in actual results compelled by Government policies, as inevitable results are much more important to the public than mere individual criticism of the conduct of the taxpayer. These are some of the obstacles in the way of normal recovery, which, if removed, would open the way. Yet in the face of these obstructions the strength of American industry is sufficient to show some gains in meeting demands.

In a not distant future the years 1933 and 1934 will be singled out as the years when an American administration actually ordered millions of hogs slaughtered, and meat destroyed, when 10,000,000 men were out of work and in needy circumstances. This period will be marked as the time when the Government paid farmers \$10 per acre for leaving their wheat ground lie fallow, a similar sum if they would plow up their cotton, notwithstanding the millions of citizens seeking in vain employment, and actually suffering by underconsumption of these very necessities of life. These are some of the economic blunders of the program of national planning which make business revival very difficult.

The power to revive is further shown in our foreign trade. The foreign commerce division of the Chamber of Commerce of the United States reports that—

The year 1933 was a turning point in our foreign commerce. The steady decline in both our export and import trade was definitely checked in the middle of the year, and was replaced during the last half of the year by a substantial recovery movement. This paralleled in part the improvement in domestic trade and the change in economic conditions in many major sections of the world.

In the testimony before the Ways and Means Committee by the administration advocates of conferring this extraordinary tariff power upon the President, and repeated by the chairman in opening the debate on the floor of the Senate, much stress was laid upon the decline of our foreign trade from 1929 to 1932. But in these arguments the decline in imports and exports was stated in terms of value, and not in terms of volume. The decline in value makes an impressive showing, amounting to something like 69 percent in 1932 compared with 1929; a decline that is largely due, however, to the enormous fall in commodity prices.

But when the decline is expressed in terms of volume instead of value the picture is not such a gloomy one. In volume the decline in our imports and exports amounted to about 30 percent, about the same as the decline on some branches of domestic production and far less than the decline in the steel and construction industries. In these arguments, however, the comparison of the statistics of foreign trade have generally been based upon the figures for 1929 and 1932. The year 1929 was a boom year, a year of abnor-

mally large exports and imports, and the year 1932 followed the collapse of central Europe, a low year of the depression. The comparison is misleading because it is based on inflated prices in 1929 and deflated prices in 1932.

A comparison of 1929 and 1933 would not make quite such a bad showing. Imports in 1932 were \$1,323,000,000; in 1933 they were \$1,449,000,000. Our exports in 1932 were \$1,577,000,000; in 1933 they were \$1,647,000,000. Here was an increase of \$126,000,000, or 9.6 percent, in imports in 1933 over 1932; and an increase in our exports of \$70,000,000, a 4-percent increase over 1932. When it is noted that our exports for the first 5 months of 1933 were lower by 24 percent than they were in the first 5 months of 1932, the net gain of 4 percent for the full 12 months of 1933 over 1932 is more significant. Suspension of production covering the usual period of depression will give way to increased business activity due to low inventories as is shown by statistics. Our foreign, as our domestic, commerce awaits the chance for normal processes, not artificial nostrums, and certainly not unconstitutional proposals, such as delegating the taxing power to the Executive.

The increase of exports and imports took place without the exercise by the President of any tariff-bargaining powers and in spite of the program of experimentation. It is reasonable to suppose that foreign trade will gradually improve as business conditions improve both here and abroad and world prices approach a more nearly normal level. A plan to stabilize currencies and restore world prices would have a better and more far-reaching effect upon world trade than Presidential bargain hunting. Our domestic trade is twice as large as the trade of the rest of the world.

Mr. President, not to detain the Senate unduly, I should like to have permission to insert in the RECORD, without reading, a table which gives the total exports and imports by months for the years 1932 and 1933.

There being no objection, the table was ordered to be printed in the RECORD as follows:

Total exports and imports, by months, 1932 and 1933

[Values in thousands of dollars, i.e., 000 omitted]

Month	Domestic exports		Reexports		Total exports		Percent gain (+) or loss (-)
	1933	1932	1933	1932	1933	1932	
January.....	\$118,550	\$146,006	\$2,030	\$3,116	\$120,580	\$150,022	-19.6
February.....	60,423	151,048	2,092	2,924	101,515	153,972	-34.1
March.....	106,293	151,403	1,722	3,473	108,015	154,876	-30.3
April.....	103,265	132,268	1,952	2,826	105,217	135,094	-22.1
May.....	111,845	128,553	2,358	3,346	114,203	131,899	-13.4
June.....	117,517	109,478	2,274	4,671	119,791	114,149	+4.9
July.....	141,573	104,276	2,536	2,555	144,109	106,831	+34.9
August.....	129,815	106,270	2,157	2,330	131,972	108,600	+21.1
September.....	157,490	129,537	2,629	2,500	160,119	132,037	+21.3
October.....	190,942	151,035	2,228	2,054	193,070	153,089	+26.1
November.....	181,291	136,402	2,965	2,432	184,256	138,834	+32.7
December.....	189,788	128,975	2,831	2,638	192,619	131,613	+46.4
Total.....	1,647,201	1,576,151	27,774	34,865	1,674,975	1,611,016	+4.0

Month	General imports			Total trade	
	1933	1932	Percent gain (+) or loss (-)	1933	1932
January.....	\$96,006	\$135,520	-29.2	\$216,595	\$285,542
February.....	83,748	130,990	-36.1	185,263	264,971
March.....	94,860	131,189	-27.7	202,875	286,065
April.....	88,412	126,522	-30.1	193,629	261,616
May.....	106,869	112,276	-4.8	221,072	244,175
June.....	122,197	110,280	+10.8	241,988	224,429
July.....	142,980	79,421	+80.0	287,089	186,252
August.....	154,916	91,102	+70.0	286,388	199,702
September.....	146,641	98,411	+49.0	306,760	230,448
October.....	150,857	105,499	+43.0	343,927	258,588
November.....	128,505	104,468	+23.0	312,761	243,302
December.....	133,217	97,087	+37.2	325,836	228,700
Total.....	1,449,208	1,322,774	+9.6	3,124,183	2,933,790

Total exports and imports, by months 1934 (first quarter)  
[Values in thousands of dollars; i.e., 000 omitted]

Month	Domestic exports, 1934	Reexports, 1934	Total exports		General imports	
			1934	Percent gain over 1933	1934	Percent gain over 1933
January.....	\$169,531	\$2,643	\$172,174	42.8	\$135,711	41.4
February.....	159,671	3,134	162,805	60.4	132,656	53.5
March.....	187,495	3,520	191,015	76.8	158,000	66.6

Source: Bureau of Foreign and Domestic Commerce, Department of Commerce.

Mr. FESS. Mr. President, no other nation has the domestic purchasing and consuming power that we have. Here in the United States—I scarcely need repeat what is known by our people—we have a market for over 90 percent of our production. We are dependent upon foreign markets for less than 10 percent of our consumption, while foreign countries, in contrast, depend upon exports for an outlet for from 20 to 80 percent of their products. There certainly is no prospect for us to increase the export of such goods as are now produced in other countries far in excess of their domestic requirements. I need go no further by way of illustration than to refer to our experience in the case of wheat. At one time we found a market in Europe for all our surplus wheat. Today that market is gone, not because the people are not consuming wheat, but because they are getting it from countries which are now producing it which did not produce wheat prior to the World War.

With the exception of cotton, certain types of machinery, some electrical appliances, typewriters, adding machines, and automobiles, the demand for many of our products which were formerly exported in large quantities has declined because of increased production in countries that can sell these products at prices lower than our cost of production.

The export demand for American cattle and wheat has declined sharply because of increased production in Canada, Argentina, Australia, and Russia. Intensive effort has been directed since the World War toward increased production of both agricultural and manufactured products. Almost every country has made some effort to become more self-contained and less dependent upon other countries.

This economic situation is one of the contributions of the World War which was called into existence first as an emergency and has now become permanent. It has definitely absorbed the foreign market by supplying it with cheaper production, never to be regained by us with our more expensive products due to higher standards of living.

That is one reason for the decline in world trade; and so long as this tendency continues we shall find it difficult to obtain larger foreign markets through international agreements by tariff bargaining, except upon such terms that we shall have far more to lose than to gain.

The advocates of extending this unprecedented tariff power to the President have not told us with any definiteness where greater foreign markets are to be found or what of our commodities may benefit, and they have been equally indefinite about what domestic products are to be sacrificed in order that our exports may be increased. There have been some intimations from the Secretary of Agriculture that some unspecified small and inefficient industries may be wiped out and their products imported from more efficient foreign countries, his test of efficiency apparently being cheapness of price. It would be interesting to the American people to be told by authority just what articles of American production are to be included in the list of those which are inefficient and expensive. In all probability the American people will deny both intimations—that their industries are inefficient, or that they are expensive.

The Secretary also intimated that if we bought more sugar from Cuba, Cuba might buy more lard from us. Such a prospect might appeal to the Corn Belt, but it would be far from satisfactory to Louisiana and the beet-sugar States.

Mr. DICKINSON. Mr. President, will the Senator yield?  
Mr. FESS. I yield.

Mr. DICKINSON. I should like to suggest that the best corn section of Iowa is also the sugar-beet-producing section of Iowa. Therefore, if we were to buy more sugar from Cuba in order to sell more lard, we should be cutting off the sugar-beet area of Iowa. On top of that, the best corn area of Iowa is also the best hog area of Iowa. Therefore, we have three conflicting interests there, none of which can be segregated according to any international trade agreement with any country in the world without punishing some particular industry.

Mr. FESS. I appreciate the statement of the Senator from Iowa, who conclusively refutes the statement of another citizen of Iowa from whom I was quoting. That is why I used the expression that the action that is proposed might be favorable to the hog area or the corn area. I had not attempted to analyze it, but I admit the strength of the statement of the Senator.

Mr. President, if Secretary Wallace's definition of efficiency—that is, cheapness—should be applied to all our products, Japan would supply our pottery; France, our silk, laces, and wines; England, our cotton and worsted goods; Germany and Belgium, our steel products; Switzerland, our cheese and watches; Argentina, our wheat, flaxseed, and meat; and New Zealand, our butter. Under any such impracticable program, new alphabetical bureaucracies would have to be speedily established to care for the unemployed and feed the hungry, and "recovery" would be a word to be mentioned only in our prayers. Of course, no administration should be permitted to carry out any such program as that.

Nevertheless, implied and involved in this tariff-bargaining plan is some thought or idea of applying such a theory in part, at least. The program is definitely described as being a give-and-take arrangement. What is there that we could take in a foreign market that would compensate us for what we would have to give of our domestic market? Let the items be specified.

There are many cities in the United States whose trade is worth more to us than the entire commerce of some foreign countries. Our domestic market is so much more important to us than any possible foreign market that it should be maintained and safeguarded in spite of the alluring but deceptive promises of reciprocal trades. We have only the friendliest feeling for foreign countries and for their people; we wish them peace, prosperity, and continued development; but our altruistic sentiments do not include the folly of destroying our own business, or any part of it, to promote at our expense the business of foreign competing countries.

We were assured that there would be no lowering of the tariff on agricultural products. That assurance came from the very highest authority, the President of the United States, while a candidate; and the assurance has been constantly repeated by those identified with the administration.

Mr. President, if we could always match promise with performance, it would not be serious; but, unfortunately, promises made in a campaign may not, at the time they are made, be fully comprehended by the one making them. Consequently, it is a common thing for the most solemn promise to be broken, or, I may say, respected only in the breach rather than in the observance.

In a speech on July 30 at Albany, N.Y., Governor Roosevelt, now President Roosevelt, said:

Let us have courage to stop borrowing to meet continuing deficits. Stop the deficits. Let us have equal courage to reverse the policy of the Republican leaders and insist on a sound currency. \* \* \* This concerns you, my friends, who have managed to lay aside a few dollars for a rainy day.

That statement was made by the same person who on the 10th of March 1933 announced that for 3 long years we had been on the road to ruin, and said that we were facing a startling deficit of \$1,200,000,000 for that year. Hardly 6 months had elapsed—in fact, only 4 months—when a message came to us stating that the deficit, instead of being \$1,200,000,000, would be six times that; and yet the order was to "stop these deficits."

On October 4 Mr. Hoover was making an address in Des Moines, Iowa. He made rather a startling statement in

reference to the country having narrowly escaped going off the gold standard. That statement was offensive to many of our Democratic leaders, including the very distinguished Senator from Virginia [Mr. GLASS].

Mr. LONG. Mr. President, will the Senator yield to me?

The PRESIDING OFFICER (Mr. McCARRAN in the chair). Does the Senator from Ohio yield to the Senator from Louisiana?

Mr. FESS. I yield.

Mr. LONG. I suppose the Senator could quote Mr. Hoover as our Democratic tariff authority now. That ought to be good news. Whatever the Senator might quote would be good Democratic tariff philosophy at this time.

Mr. FESS. My friend from Louisiana is so facile in his illustrations that I am afraid to approve or disapprove his statement. I am not sure just what he means. Of course, I know he makes that statement in good humor, as I take it in good humor.

Mr. LONG. I was just comparing what President Hoover had said with what President Roosevelt had said. President Hoover had said that he wanted to have the tariff-making authority turned over to him under the flexible-tariff law, and President Roosevelt had spoken of it in effect as being anarchistic and unconstitutional.

Now we have flopped back and have adopted Mr. Hoover's policy, I guess, or that of somebody else—I do not know who it is. I have never found out where President Roosevelt comes in on this thing. Either he is disowned here or he has quit the company. I do not know just where we stand on this matter. I am going to send out a questionnaire and find where I stand with the party.

Mr. FESS. I should be interested in that.

I interpret the reference of the Senator from Louisiana to mean that those of us who supported the flexible-tariff provision as approved by President Hoover are inconsistent now because we refuse to go as far as the pending bill proposes to go. I discussed that question last week. I said that I approached the flexible-tariff provisions with a good deal of reluctance. When it was first suggested, it was offensive to me; but the logrolling practice which always obtains in the legislative branch when there are two or three thousand tariff items to consider, all at one time, offered so many opportunities for error that I felt, if we could enter upon a scientific method by which a survey would be made, the data assembled, and a body of facts presented upon which the President might act, not upon a whole schedule but upon an individual item, the innovation would be justified; and for that reason, with some reluctance, I supported it. Of course, however, I never dreamed of going to the extent of permitting the President, without a hearing or the collection of data, just upon his own ipse dixit, to say what a tariff rate should be. That would be exceedingly offensive, to my way of thinking on tariff legislation.

Mr. VANDENBERG. Mr. President, will the Senator yield?

Mr. FESS. I yield.

Mr. VANDENBERG. Is there not the further very important distinction that under the existing flexibility there is a specific yardstick—to wit, the cost of production—whereas under this proposed new arrangement we are embarking upon the uncertain sea of personal judgment, which may be unrelated to cost of production; indeed, which we are notified will be primarily related to a tyrannical decision as to what business is entitled to survive in the United States? I do not know how a difference could be more fundamental than that.

Mr. FESS. The Senator is correct. He gives an illustration very apt and commanding.

There is another danger which I should like to have my colleagues realize. If power shall be given to the President to say what this rate shall be or what that rate shall be, an industry which is now protected might be forced into a controversy with the highest authority on some rule under the N.R.A. which might involve serious consequences. What

is to deter the President from saying, "Meet this requirement, or you will be destroyed"? The President would not say that, but why should we give such power to any man that under impulse he might be led to do such a thing? That is a consequence which would be possible under the provision written into this authority, of which heretofore nobody ever dreamed.

Mr. VANDENBERG. Mr. President, will the Senator yield?

Mr. FESS. I yield.

Mr. VANDENBERG. The Senator certainly is justified in his observation. I call his attention to the fact, by way of further confirmation, that it is a fundamental theory in the philosophy of fascism that a dictatorship of that character can only succeed as it has its hand upon the economic power to rule or ruin industry. Therefore this proposal is Fascist in its philosophy, Fascist in its objective, and might well become Fascist in its operation.

Mr. FESS. Certainly that is true, and, as has been said so often, the danger is not how far the step, it is the direction in which the step is taken. It is not the number of steps taken, but rather whether the first step is to be taken. When the first step shall have been taken, everybody knows what will follow.

Mr. President, I recall that less than 20 years ago, when I was a Member of the other body, there was a destructive fire in a city in a certain State, and an appeal came from that State to the House of Representatives for relief from the Government. The appeal developed a very serious debate, and even a Member of the House from the State which was to be benefited spoke against the relief being given, on the ground that if we embarked on that policy we would never stop.

As I have stated, that was less than 20 years ago.

There was recently a drought in the West, and I am told that it is being estimated that the loss will amount to somewhere between five and six hundred million dollars. No doubt we shall be asked, before we adjourn, to give authority for the appropriation of an enormous amount of money for relief, and we shall be justified in taking that action, because we have started upon the policy, the first step of which was difficult to take, but it has now become the practice of the Government, and we pursue the course easily. That is the significance of any innovation, especially if there is a test of constitutional authority in making it.

Mr. President, I was about to quote what President Hoover said about our near approach to going off the gold standard. His statement somewhat aroused our Democratic brethren, and an ex-Secretary of the Treasury, now a very distinguished Member of this body, who wrote the Federal Reserve Act of 1913, and who was called upon to reply to the statement which had been made by President Hoover. Let me read a brief statement made by the Senator from Virginia [Mr. GLASS], who had been Secretary of the Treasury in President Wilson's Cabinet, and who wrote the plank in the Democratic platform announcing the party's position in favor of a sound currency. This is what the Senator said:

I assert that those of us responsible for legislation never had the remotest intimation from the administration that the gold standard was in danger. I repeat the assertion that anybody who now says anything to the contrary of what is alleged here is either ignorant of the facts or indifferent to the truth.

The Senator further commented upon the statement:

If the President and the Secretary of the Treasury had knowledge of the fact that this country was faced with imminent disaster by being driven off the gold standard in 2 weeks, and failed to so advise the banks and private investors who purchased nearly \$4,000,000,000 of these Federal securities, they were guilty of amazing dishonesty; they were cheating the investment public; and could not even appropriate to themselves the solace of future oblivion.

That was the statement of the senior Senator from Virginia in answering President Hoover's allegation that we were within 2 weeks of going off the gold standard.

The Democratic candidate for President at that time, now the distinguished President of the United States, made this statement:

The business men of this country, battling hard to maintain their financial solvency and integrity, were told in blunt language in Des Moines, Iowa, how close an escape the country had some months ago from going off the gold standard. This, as has been clearly shown since, was a libel on the credit of the United States.

The distinguished speaker proceeded:

No adequate answer has been made to the magnificent philippic of Senator Glass, in which he showed how unsound was this assertion. And I might add Senator Glass made a devastating—

I wish this language to be especially noted—

Senator Glass made a devastating challenge that no responsible government would have sold to the country securities payable in gold if it knew that the promise, yes, the covenant, embodied in these securities, was as dubious as the President of the United States claims it was.

Mr. President, I am mentioning this to indicate the danger of relying upon promises made during the time of a campaign. I have just finished quoting a statement from the President. What followed? First, gold payments were suspended. Next, the gold standard was forsaken, although that action was claimed to be but temporary. Then it was flatly repudiated by law, the President thereafter referring to it as one of the old fetishes of so-called "international bankers."

On October 22, discussing the gold-purchase plan, the idea being to change the value of the dollar much faster by manipulating the price of gold, the President said:

We are thus continuing to move toward a managed currency.

Mr. President, let us keep in mind the statement that no responsible government would issue bonds to be paid in gold, if it knew that the gold-redemption clause was to be eliminated or that the Government was to go off the gold standard. It took 3 months to accomplish that result, and during those 3 months the Government sold to banks and investors \$1,400,000,000 worth of securities, all of them bearing the engraved words, "Principal and interest payable in gold coin of the present standard of value."

On March 9, 1933, the Congress enacted an emergency law investing the President and the Secretary of the Treasury with absolute power to control money and banking, including the power to require all private owners of gold, if necessary, to deliver it up to the United States.

On March 12 the Treasury sold \$800,000,000 worth of short-term bonds, called "certificates of indebtedness", and on each bond was engraved the promise to pay in gold.

On March 15, 3 days later, another issue of \$100,000,000 of Treasury bills was made.

On April 5, only 20 days later, the President issued an order commanding all private persons and all private banks to deliver by May 1 all their gold possessions.

On April 5, parallel to the President's order commanding privately owned gold to be surrendered, the Secretary of the Treasury issued a statement saying:

Those surrendering gold, of course, receive an equivalent amount of other forms of currency.

And that is a fairly good statement of what gold-standard money is, in accordance with the statement of the Secretary of the Treasury.

On April 19 the President proclaimed the embargo on exports of gold.

On April 23, 4 days after the President had proclaimed the embargo on gold exports, thereby serving notice on the world that the American Government would no longer hold its dollar to the gold standard—for that is what the embargo meant—the United States Treasury offered and sold \$500,000,000 of short-term bonds called "3-year notes." It issued them in small denominations, and recommended them to small investors; and in the Treasury circular offering these bonds the Government said:

The principal and interest of these notes will be payable in United States gold coin of the present standard of value.

People bought them on that representation, unaware that the Government was then writing a law to repudiate that contract.

Five days later the Senate passed the inflation law.

Then, on June 5, responding to the wishes of the administration, the Congress by joint resolution repudiated the gold clause and violated its most solemn pledge without consulting the other party to the contract.

Mr. President, I take the time to point out only that one instance, dealing with the money question, to say nothing about a great number of other issues treated in identically the same way, to indicate that the promise we have that there will be no lowering of the tariff on agricultural products cannot be relied upon. That is not questioning the honesty of the utterance. It is simply calling attention to the fact that promises are not kept when it appears convenient to break them.

Mr. President, I have dealt with our present economic situation. I now propose to indicate by contrast how Great Britain proceeded and what her condition was in 1921. When Great Britain was faced with her most dangerous unemployment problem, and had for sometime before entered upon the system of the dole, and was seriously considering its abandonment, as a necessity, the problem before the Parliament of Great Britain was, What is to be done about the unemployed? Bonar Law was the man who was willing to announce a policy that had been antagonistic to the British idea of trade for more than 70 years. The Prime Minister said that there were three possible alternatives:

One was to abandon the dole; but the consequences of such abandonment at the time could not be fully understood.

The second alternative was to allocate to the various colonies a certain portion of the unemployed.

The third alternative was to adopt the system of protective tariff.

The British had not gone far in the discussion until the idea of giving up the dole without some substitute had to be abandoned. Then the question came as to the allocation of the unemployed. Immediately certain questions arose: First, where to send the unemployed? Who would want them? Second, what would be sent with them? What would be their condition after they were sent away? What would be their feeling about being taken from their old localities, in which their ancestors were born and lived, and sent to foreign parts?

The present administration, under the new deal, evidently was not familiar with the experience of Great Britain; for when the British Government came to inaugurate the program of sending large numbers of the unemployed to various colonies, the whole plan was found to be so impracticable that it was immediately dropped. I had not heard anything about it after that until it was revived here in the United States by the announcement that that would be one of the methods of caring for the unemployed. I assumed that those who were talking about it had not looked into the possible consequences, and I am not at all surprised that we now are hearing nothing more about it.

Great Britain finally was led to the only practicable alternative of the three, namely, to adopt the policy of giving to her own people sufficient work to employ at least a portion of them.

With that statement as a preface I desire to present the problem of Great Britain, and how she was dealing with it back in 1921.

#### THE EXPERIENCE OF GREAT BRITAIN—THE BRITISH TRADE CRISIS—DEFINITE ACTION ESSENTIAL

There is a striking similarity in the description of conditions in the United States today, as stated by the advocates of the pending bill, and conditions in England in 1921, as depicted in a bulletin of the Tariff Reform League of London. I am about to quote from the Tariff Reform League bulletin; and I should like to have those who do me the honor of listening note the similarity of the condition of Great Britain then with our condition of today.

1. Our overseas trade (i.e., British foreign trade), upon which this country depends for the bulk of its food and raw materials, has dwindled to less than one half of its pre-war volume.

Taking 20 principal countries, including the United Kingdom, investigation of official returns for the latest fully comparable period, namely, the third quarter of 1920, shows that the aggregate weight—volume, not value—of exports from these countries amounted to 92.3 percent of the pre-war volume, while exports from the United Kingdom alone were only 41.6 percent of their pre-war volume.

Our exports—

Note that the word "our" refers to Great Britain and not to the United States—

Our exports of United Kingdom produce in 1913 were 91,803,000 tons.

Our exports of United Kingdom produce in 1920 were 39,509,000 tons.

A falling off of nearly two thirds.

For the first 5 months of this year, 1921, our exports of United Kingdom produce, excluding coal, coke, and fuel, were 2,935,000 tons, as compared with 6,324,000 tons in the corresponding 5 months of 1913.

That was about a 2-to-1 ratio.

2. Our chief foreign competitors—Germany, Belgium, the United States, and Japan—are capturing our former markets in all parts of the world, including our own Empire.

Examples: The United Kingdom's share in the total competitive import trade of Australia decreased from 63.2 percent in 1913 to 46.6 percent in 1919, whilst in the same period the United States' share increased from 11.8 to 29.3, and the share of Japan from nil in 1913 to 11.4 percent.

The statement shows that Britain's decrease in that trade was nearly 50 percent while the United States increased her trade by a little less than 200 percent.

The United Kingdom's share in the total import trade of New Zealand decreased from 59.73 percent in 1913 to 37.6 percent in 1918, and the United States' share increased from 9.46 percent to 26.2 in the same period, and Japan's share from nil to 4.3.

The United Kingdom's share in South Africa's import trade decreased from 54.4 percent in 1913 to 45.5 percent in 1919, whilst the United States' share increased from 9.5 percent to 24.1 percent, and the Japanese share from 0.3 to 3.8.

3. The chief reason for these adverse conditions is the high price of British goods, both at home and abroad.

Examples are given, comparing British and German prices—and this is very suggestive, because Germany is one of the countries that even then put, and since then has put, much emphasis on efficiency in manufacturing:

Examples: German steel bars, £10 a ton; British, £16 to £17 a ton. German magnetos, £5; British, £12 to £15.

In other words, in Britain the price was more than double that in Germany—

German gramophones, £3. British, £7.

German rock-cutting machine, £650. British, £1,200.

And so it goes. These items are only a few that I have taken, but about the same ratio is shown throughout:

German chucks, 17s. 7d. each. British, 54s. 6d. to 58s. each.

German 3-jaw chucks, £2 3s. 7d. each. British, £6 0s. 8d. each.

Meat-cutting machines: German price, £295. British price, £500.

Eighteen tenders were presented for a 10,000-kilowatt turbo alternator, including British, French, German, and various other manufacturers, with the following result:

German price, £47,000, delivered in 10 months.

British price, £84,000 and £95,110, deliveries from 12 to 18 months.

4. The price of British goods is high because of (a) high taxation and high cost of raw materials and (b) low production coupled with high wages.

The report proceeds:

5. We are being undersold in the world's markets by Germany and other countries because—

(A) Taxation is lower in these countries than it is here—

Meaning Great Britain—

(B) Production is higher in these countries than it is here.

(C) Wages are lower in proportion to production in these countries than they are here. In the case of Germany, owing to this fact and the depreciated value of the mark, wages are only about one fourth the value of British wages.

(D) These countries control their own home markets, which absorb three fourths of their normal production, and this enables them to maintain a large output.

Mr. President, if we take those facts, and in their light look into our own situation, the similarity is most striking.

Although Britain has a free-trade background of many years, if she could have her own labor employed to produce the commodities she consumes, instead of letting them come in from Germany, she would have some relief, and it is the trend on the part of Great Britain ultimately to leave the field of free trade for, at least, a modified form of protection.

Although there is a marked similarity in the condition of British trade in 1921, as described by this bulletin, with conditions in the United States at the present time, as pictured by the official spokesmen of the administration, there was a very decided difference in the remedy proposed in Great Britain compared with that submitted for our approval here. This will be apparent as I continue to read from the bulletin:

6. If this country (i.e. Great Britain) is to recover and increase its trade in overseas markets, we must produce cheaper, and in order to do so, we must command a large and prosperous trade in the home market.

I ask if that does not sound like the American protective-tariff principle? We must produce more of our needs, and we must maintain our home market.

This can only be accomplished by the adoption of a trade policy which will secure the control of British markets in the interests of British production, and the essential basis of such a policy is a national customs tariff.

There is the first official statement of the British authority, as expressed in this bulletin, that the British have got to go on the basis of protection.

Up to this time, Mr. President, the labor question has not been discussed. I now will cite some of the statements in this bulletin on that particular phase of the problem:

#### THE INTEREST OF LABOR

No one is more interested than the British working man in the adoption of such a policy. The dominant feature of the industrial situation today is the justifiable demand of labor for the maintenance of high wages and a higher standard of living than was possible before the war. It is more necessary today therefore than ever before to convince our industrial workers—

Does that not sound like the policy of Henry Clay, of William McKinley, of Samuel J. Randall, and of other leading Democrats who believe in the protective tariff—and we have many of them who at least believe in the protection of specific articles?

This bulletin goes on to say:

1. That wages can only come from production.

2. That high wages, if obtained from low production, necessarily mean high cost of production and therefore high prices. That is to say, when wages are high and goods are scarce the purchasing power of money is low. High wages from low production do not therefore ensure a high standard of living.

That is splendid American doctrine. I quote further from the bulletin:

3. That high wages, if obtained from high production, permit of low cost of production and therefore the possibility of low prices. Under such conditions goods are plentiful and the purchasing power of money is high. High production must therefore accompany high wages if a high standard of living is to be maintained.

That is a splendid illustration of our modern formula of efficiency production—a better article this year, produced at a lower price by labor paid at a high price, and put on the market on a margin of profit. That is the formula of modern industry, and, though stated in other words, that is what this British bulletin suggests:

(4) That wages—whether high or low—can only be assured to the worker if the industry which pays the wages is protected against unrestricted foreign competition.

There is a recital of the experience of what we used to call "free trade" England, and that is the remedy that was considered and applied in order to surmount the difficulty in 1921.

I shall now proceed to enumerate the acts of Great Britain leading to the protection of home industries in order to provide employment for her unemployed.

The Safeguarding of Industries Act and later legislation of an even more pronounced protectionist character was England's method of meeting the crisis. She restricted competitive imports, safeguarded domestic industries, put people then on the dole back on the pay rolls, and shielded her

own industries and those of her colonies with imperial preferential tariffs.

Throughout Europe, as was the case in England, since the World War it has been the aim and object of the various nations to solve first their domestic problems, find employment for their own people, safeguard their own industries, and establish wherever they could new industries, in order that production might be diversified, the national life enriched by new opportunities for the employment of labor and capital, and the national economic system so developed and strengthened that it would be less dependent upon foreign sources of supply.

While this program of national development is more difficult for the nations of Europe than it is for the United States, nevertheless it has proceeded to some considerable extent, and national needs heretofore supplied by international trade have been supplied from domestic sources to a larger extent than was formerly the case.

Because of the lack of natural resources and of restricted area, with the necessary absence of varied climatic conditions suitable to a wide variety of agricultural production, there is much more economic interdependency on the part of the nations of Europe than is the case with the United States, which spans the richest section of a continent endowed by nature with unparalleled resources, with a tropical, semitropical, and temperate climate, and blessed with a skilled, inventive, and industrious people unmatched anywhere in the world, past or present.

Europe, with an area of 3,800,000 square miles, is divided into some 25 nations of varied nationalities, religions, customs, and laws, separated by artificial tariff barriers.

The United States, with an area, exclusive of its insular possessions, of 3,026,789 square miles, is one Nation, under one Constitution and one flag; with a united people speaking one common language, actuated by a common purpose, and moving forward to a common destiny with uninterrupted freedom of trade representing the greatest buying power in all history.

It is not surprising, therefore, that Europe, crisscrossed as it is with national boundaries, populated with 330,000,000 of people of divided allegiance, of diverse interests, with age-long feuds, animosities, and suspicions, should have, as Washington pointed out many years ago, a set of primary interests distinct from our own. It is not surprising that they have adopted measures and resorted to practices peculiarly adapted to their political and economic system.

We are told that we should follow their example. We are told by the spokesmen of the administration that we should adopt their methods. We are urged to adopt a bargaining tariff system because Europe has it. What about our own, our American system, the system adopted by Washington and approved by Jefferson, Madison, Jackson, and an almost unbroken line of American Presidents and by almost all our most illustrious statesmen?

It is a system recommended by Hamilton's famous report on manufactures, founded upon our unmatched natural resources, adapted to our climatic conditions and the spirit and enterprise of our people.

It is the mainspring of our national development. It has enlarged to an unrivaled extent the domestic market for agricultural products. It has encouraged manufactures. It has diversified our industries. It has led to a more abundant life for the American people than any other economic system in the world. No other eulogy of the American system is needed than that uttered by Woodrow Wilson in an article in the *North American Review* of October 1909, when he said:

The principle upon which the system of protection was originally founded was the development of the country, the development of the resources of the continent, and the skill of the people. The principle is intelligible and statesmanlike, especially in a new country. Hamilton's position, the position of those who have intelligently and consistently followed him, is defensible enough. Nobody now doubts that the policy of Hamilton put the Nation under a great stimulation, gave it the economic independence it needed, immensely quickened the development of its resources and the power of its people.

Because of the efforts to widen opportunities for employment and secure a greater distribution of labor an increas-

ing proportion of our population was finding employment in manufacturing, mining, and mechanical pursuits. In 1860 we were no longer a people devoted almost exclusively to agriculture. By 1880 only 49 percent of our population were engaged in agriculture, lumbering, and fishing; 25 percent in manufacturing, mining, and mechanical employment; and 12 percent in trade, transportation, and clerical work.

The Nation's industrial expansion under the policy of protection continued throughout the 40 years following the census of 1880, and the census of 1920 graphically depicts the progress that was made. According to the census reports of that year, 27 percent, or a fraction over one fourth, of our population was engaged in agriculture, lumbering, and fishing; 33 percent in manufacturing, mechanical pursuits, and mining; and 25 percent in trade, transportation, and clerical work; leaving but 15 percent for all other pursuits.

The enlightened vision of Washington, Hamilton, Jefferson, and Andrew Jackson was reaching its full achievement, and the efforts of American statesmanship for the diversification of our industries, the distribution of our labor, and the development of a well-rounded industrial system, through the encouragement and protection of agriculture and manufacturing, were accomplishing some of the results hoped for at the initiation of the program.

I wish to call attention to that particular phase which evidently is a product of our protective-tariff system. We have about as many people engaged in manufacturing as in agriculture, and about as many in each of those industries as we have in other fields; so we have today, through the legitimate operation of this American system, a population equally divided in the various lines of activity. Today the energies of our people and the population of our country are almost equally divided between agriculture, manufacturing, transportation, trade, clerical work, and professional or domestic service.

No nation on earth shows such a wise and beneficial balance of human effort and human service. In no other nation are there such opportunities for agriculture, manufacturing, trade, and professional and clerical service. No economic or fiscal system devised by the ingenuity of man has brought such far-reaching results, such widespread development, and such far-flung benefits as the so-called "American system."

Yet it is this system that the political descendants of Thomas Jefferson, James Madison, Andrew Jackson, and Woodrow Wilson now ask us to abandon, and in its place to accept the European system; to give up the American policy of protection to agriculture, of encouragement to manufactures, of equality of treatment to all nations, and adopt the European system of bargaining tariffs. Notwithstanding our efforts, within our constitutional limitations, to introduce into our tariff system more flexible methods of tariff adjustments, foreign countries, and particularly European countries, have, it is true, a far more flexible and expeditious method of effecting tariff changes than we have. This is possible because of the fundamental difference in their form of government. These other governments are not bound by strict constitutional limitations as we are. They have not the sharp distinction between legislative and executive power that is laid down in our Constitution. They are not hampered by a provision of fundamental law. In those countries where the executive is a constituent part of the Parliament, or where the legislative branch of the government is less restrained by constitutional limitations than is the American Congress, wide power to impose or to change customs duties may be conferred upon executive officials or administrative boards without submission to or ratification by the legislature.

Under the cabinet system of government, generally denominated "responsible ministry", the legislative program is controlled by the "government" of the day. When the government proposes a bill and insists on its passage, the legislature must pass it or resort to one of two alternatives—either to force the resignation of the cabinet, permitting the opposition to take over responsibility, or to ask the sovereign to prorogue Parliament and send the issue directly to the voters for approval or disapproval. Such executive

control of legislative procedure makes it also comparatively simple for ministers to obtain the routine enactment of minor measures, for instance, bills confirming provisional orders, as in Great Britain.

A large part of the tariff rates actually enforced in France, Spain, Switzerland, Italy, Germany, and other European countries are finally determined, not by the legislature, but by treaties negotiated by the executive, though these treaties are submitted to the legislative bodies for amendment, and the treaties are sometimes made provisionally effective before ratification. Especially during the war nearly all the governments of Europe controlled tariff rates by executive decree; but even in times of peace many governments have granted much wider powers to the executive than has been the custom in this country.

Under stress of the ever-increasing complexity of modern administration and of the growing difficulty of passing complicated measures through Parliament, the expedient of delegating legislative powers to executive authorities has been resorted to more and more frequently. Present-day acts of the British Parliament have a tendency to lay down a few broad general rules or declarations of principles, leaving details to be worked out on those general lines by the legislature, and brought into force by administrative regulations or statutory rules.

But the Parliament of Great Britain has been consistently cautious in its delegation of legislative powers, insisting that they be carefully expressed and limited, and not unfrequently reserving to itself some kind of control over the powers delegated. The judicature act amendment (1875) for an early example, and the tithe act (1891), required that every order in council and rule of court made in pursuance of it be laid before each House of Parliament within 40 days after being made, subject to being annulled on an address from either House. The board of agriculture act (1889) stipulates that the draft of any order in council made under the act shall be laid before each House for not less than 30 days, during which time it can be rejected by an address of either house against the draft, or any part of it, without prejudice, however, to the making of any new draft order.

In changing her policy from a tariff for revenue to a tariff in part protective, Great Britain entrusted large powers to the executive. The safeguarding of industries act, 1921, enumerated certain products of key industries to be dutiable at 33½ percent ad valorem; but the board of trade was empowered to include other articles in the list and to exclude articles improperly included. That is to say, the board defined in detail what articles were included in such phrases as "optical instruments", "scientific glassware", "laboratory porcelain", and "synthetic organic chemicals." There have been a considerable number of additions and exclusions. In Great Britain, confirmation by Parliament of executive orders usually means that the orders are confirmed wholesale in a routine way; but owing to the acuteness of the controversy over free trade and protection, the confirmation of orders under this section of the law was at times hotly contested.

The special act for the protection of the dyestuffs industry in Great Britain provides for a licensing system, and the determination of the articles and the quantities to be admitted is left to the board of trade. Many Senators will recall that when we first discussed the protection of synthetic dyes, a very powerful argument was offered in both branches of Congress to the effect that we should do it by the licensing system, because it had been adopted by Great Britain. The law establishes the procedure to be followed, and prescribes the establishment of certain committees, but the acts of the board of trade are not submitted to the confirmation of Parliament.

#### TARIFF POLICIES IN THE DOMINION OF CANADA

Mr. President, a discussion of the tariff policy of the colonies of Great Britain is a most interesting line of study.

In sections 286-301 of the Canadian customs act (R.S., ch. 48) the powers of the Governor-in-Council are set forth under 40 heads or subheads. Most of the powers relate to administration rather than to the substance of the tariff.

A similar broadly discretionary power over tariff duties was conferred on the Governor-in-Council in 1922, in the following terms:

If at any time it appears to the satisfaction of the Governor-in-Council on a report from the Minister of Customs and Excise, that natural products of a class or kind produced in Canada are being imported into Canada, either on sale or on assignment, under such conditions as prejudicially or injuriously to affect the interests of Canadian producers, the Governor-in-Council may, in any case or class of cases, authorize the Minister to value such goods for duty, notwithstanding any other provisions of this act, and the value so determined shall be held to be the fair market value thereof (act of 1922, ch. 18, sec. 3).

#### TARIFF CHANGES IN AUSTRALIA

In Australia's tariff act, 1921, provision was made for the flexibility of rates in 75 instances by use of the elastic clause, as prescribed by departmental bylaws, meaning bylaws made by the minister of trade and customs. Such bylaws have been issued altering the customs duties in three different ways:

First. Permanently classifying, under certain of the elastic numbers, commodities theretofore unclassified.

Second. Transferring commodities from other items to a special elastic one, thereby, until a new order is issued, establishing a new rate of duty.

Third. Altering duties temporarily, frequently for a single day.

The tariff board act, 1921-24, of Australia provided for the appointment of a tariff board consisting of four members, to be appointed by the governor general for a term not less than 1 year nor more than 3 years. One of the members shall be an administrative officer of the department of trade and customs, who shall be appointed chairman of the board. The declared purpose of the tariff board is to assist the minister in the administration of matters relating to trade and customs.

#### TARIFF TRENDS IN FRANCE

In France taxes can be laid or abolished only by law—law of June 1, 1864, and repeated annually in the budget act. However, a large measure of control over tariff matters has been delegated by French law to the executive, not only during the war but also before and since. This power to change tariff duties is exercised by decrees issued by the council of ministers, the decrees being submitted to the chambers for ratification within a period stated.

Mr. President, I have made a rather hasty recital of the efforts of these countries to drift away from the free-trade policy and to embracing some form of protective policy.

We are frankly told that we should grant this power to negotiate tariff bargains because other governments have such power, and because such authority in the hands of the Executive is necessary in order to increase our foreign trade. It is this European practice which has appealed to this administration. Such authority has been vested in European activities for many years. But has it increased the foreign trade of European countries; has it opened export markets for them to any appreciable extent? Commerce between European countries and world trade in general during 1932 was at its lowest ebb when stated in depreciated prices. It has been alleged that this is due to the high tariffs and the trade barriers and restrictions which have been set up since the World War.

It is true that tariffs have been raised throughout the world and that trade barriers have multiplied. In some cases these tariff increases have been made for purely bargaining purposes in order that reductions may be made as a concession for tariff reductions by other countries.

Mr. President, the Senator from Michigan [Mr. VANDENBERG], only the latter part of last week emphasized this particular point and illustrated, in a tariff discussion, that often the rates are not raised as a basis of protection or for revenue but because they are to be used in trading, and the desire is to have them high enough so they may be reduced 50 percent and still be within the safety zone.

Mr. VANDENBERG. Mr. President—

The PRESIDING OFFICER (Mr. HATCH in the chair). Does the Senator from Ohio yield to the Senator from Michigan?

Mr. FESS. I yield.

Mr. VANDENBERG. I should like to call the attention of the Senator to the fact that the opinion to which he adverts, and which I uttered in the debate on Friday, is based upon official credentials. I call to the Senator's attention Document No. 7 of the Seventy-third Congress, first session, in which the Chairman of the United States Tariff Commission makes this specific statement:

Unless a reciprocity policy is handled with skill, it may succeed in obtaining no concessions other than removal of those high rates, trade barriers, and discriminations which foreign countries have erected or maintained for the very purpose of bargaining them away.

Mr. President, that is not the worst of it. I continue reading from the same official document, which comes from the same source which now recommends to us this amazing policy against which the Senator so eloquently inveighs:

Since 1919 there is evidence that the increasing of tariff rates and the erection of barriers, principally for use in bargaining, has grown rather than diminished. Accordingly the difficulty of making a reciprocity policy yield net reductions in foreign tariffs has increased rather than diminished as the bargaining countries have attained greater experience.

We have attained no experience. We are undertaking to cope with those who for 10 years have been engaged in this practice of manipulation.

Even that is not the end of the warning which comes to us in this official document. I intrude upon the Senator's good nature with this one final interruption.

Mr. FESS. I very gladly yield.

Mr. VANDENBERG. I quote against the same authority:

In fact, a worse result might follow from a reciprocity policy announced but not rapidly executed.

In other words, the European manipulation, putting tariffs up for the mere purpose of bargaining them down, has come to be such a scientific success that, except as we may be in a position to act swiftly and promptly—and everybody knows we are not going to act in that fashion—we stand to lose even the trade which we now possess.

Mr. FESS. The Senator is absolutely correct in that warning. I am glad he reinforces what he said the other day, and what I am saying now, by the recitation of a statement made by the tariff authority of the Government.

I recall with interest the Senator's suggestion the other day that, when we engage in diplomatic rivalry with the trained diplomats of foreign nations we are apt to lose everything we have. I recall a statement made to me by our former Ambassador to Belgium, the famous Brand Whitlock, commenting upon the danger of American diplomats or American financiers undertaking to reach a safe conclusion on the subject of a balanced currency. His statement was, "Our boys would find, before the night was half over, that they had not even a shirt left."

In almost every case of this kind a reciprocal agreement would prove unequal and unjust. That is because of the difference in purpose between European tariff making and ours. We have no rates in our tariff law designedly fixed for bargaining purposes, while that is the ruling motive in many foreign countries. Any concession we should make would be an actual concession and possibly an extremely costly one, whereas many concessions made by foreign countries would be only nominal in character. They follow the custom of the proverbial trader who puts his bid high enough to give him a large margin and still leave him in the safe zone. A reduction from their higher rate, or bargaining rate, would still leave their intermediate or lower rate sufficiently high to protect their domestic industry, while our tariff rates are supposed to equalize the difference in foreign and domestic costs of production, and any reduction in such rates would open the doors to unequal and unfair competition.

As pointed out in a report on tariff bargaining, submitted to the Senate March 29, 1933, by the Tariff Commission, the one from which the Senator from Michigan has just quoted, there is grave danger, in negotiating reciprocal agreements, that no concessions will be obtained "other than removal of those high rates, trade barriers, and discriminations which

foreign countries have erected for the very purpose of bargaining them away."

Since 1919—

The report continues—

there is evidence that the increasing of tariff rates and the erection of barriers, principally for use in bargaining, has grown rather than diminished. Accordingly, the difficulty of making a reciprocity policy yield net reductions in foreign tariffs has increased rather than diminished.

The report points out that—

Many countries are maintaining emergency tariff rates and trade barriers—

And

the possibility that the United States would obtain in return for its tariff concessions only the abandonment of measures too cumbersome and oppressive, and of tariff rates too high, to outlast the depression \* \* \* and reciprocal tariff agreements by which concessions were made in return for the reduction of such temporary duties might mean the grant of valuable concessions in return for totally illusory concessions.

I quote from pages 9 and 10.

The European tariff bargaining system offers us no promise of real or substantial benefits, and the results it has accomplished so far do not commend it to us as a model for us to follow. Even if it were extended to the free list, as has been suggested in certain quarters by some economists, it must not be overlooked that such practices could not only be in violation of the very foundation principle of the protection system, for the preservation of which we must resist this European proposal of bargaining tariff. Duties on goods not produced in this country would insure revenue, and as a revenue-only tariff, would be justifiable. But the policy violates the principle of duties for the encouragement of American industry on behalf of investment of American capital in the employment of American labor. It is fundamental with protectionists that duties on noncompeting articles, such as coffee, must be resisted to avoid the burden upon all our people of paying a tax in the form of customs duties which cannot be shifted from the American consumer to the foreign producer, as in the case of a protective duty on a competing article.

The proposal to give to the President the power to bargain on noncompeting articles on the free list, either by placing duties on such articles as coffee, for example, or to reduce the quota of such articles, would not only be in violent contravention of the principles of the American system, but it would result in direct opposition to the wishes and interests of the American public. Our refusal to tax these noncompetitive common necessities is not so much to please the foreign producer as to help the American consumer. It is true, as was said on the floor of the Senate, that if the purpose of the bargaining tariff be to conduct successful negotiations without regard to the welfare of our own people, then the free list must be included, just as, if the purpose of imposing tariffs were for revenue only, we should include duties on imports which we must have and do not produce in our country. Neither can be justified.

Mr. VANDENBERG. Mr. President, will the Senator from Ohio yield again?

Mr. FESS. I yield.

Mr. VANDENBERG. I should like to revert for just a second to the discussion we were having respecting the European system of putting up rates in order subsequently to bargain them down. The Senator from Ohio read from the official document to which I had previously referred. He did not read from the document the very significant heading, and I desire to insert it at this point in the debate, because, in a single sentence, it sums up the whole challenge. The heading of this official document reads:

The padding of tariff rates in preparation for bargaining.

Mr. FESS. That is very significant.

Mr. VANDENBERG. Yes, Mr. President. They have padded their rates. We have not padded our rates. When Uncle Sam goes into the market place in search of that kind of a bargain, he comes home at night in a barrel.

Mr. FESS. Mr. President, the fact emphasized by the Senator from Michigan must not be overlooked—that we place our duties on the basis of protection. European countries place their duties on the basis of bargaining. Ours are limited to the difference in the cost of production between our country and the country competing with us. We cannot afford to reduce our tariffs. They can afford to reduce their tariffs, because of the different purpose in mind when the rates are fixed.

#### EUROPEAN AND AMERICAN EXPERIENCE WITH BARGAINING TARIFFS

Our people need not be in the dark on the possibilities involved. In Europe a bargaining-tariff system has been employed for many years, and tariff walls are higher and more numerous there than they have ever been before. Tariff barriers have increased more in tariff-bargaining countries than anywhere else. These European bargaining tariffs are the cause of more jealousy, strife, friction, and negotiations than any other tariff procedure that could be devised. This result is inevitable where no principle is involved, and the only determinant is points for bargaining.

France, for instance, may offer reciprocal concessions to Germany, and immediately England and other countries demand that the same concessions be granted to them. Italy may offer concessions to Russia, and at once the high officials of neighboring nations are stirred with alarms of military or economic alliances. Germany and Austria agree on a reciprocal basis for the free interchange of commodities, and immediately the proposed bargain is thrown into the World Court and annulled. It might have meant the establishment of fairer trade relations between two neighboring states and promoted their economic recovery; but the consummation of this tariff bargain was not permitted, by a World Court vote of 8 to 7, on the ground that it violated Austria's international engagements under the Geneva protocol of 1922.

Of course, I am referring, as the Presiding Officer knows, to the proposed customs union, which, without any question, would have been effective between Germany and Austria had it not been for the determined protest of the former Allies against these two countries, which finally was referred to the League of Nations and later by the League of Nations referred to the World Court.

Years of tariff bargaining in Europe show that the main purpose of the negotiations is national security, the enlargement of national influence, and alliances either of a political or an economic character. They are entered into for strategic purposes, and are not consummated through the sacrifice of domestic industries or at the expense of domestic labor. Whatever else might be said of the American foreign policy, we have learned the wisdom of equal treatment of all nations with no discrimination, never asking for any treatment we were not willing to grant others.

Not only have we the experiences of Europe to caution us against such an unwise course, but we have our own unfortunate, unsuccessful, or abortive experiments with bargaining tariffs. The few times when any suggestion to modify this principle was made, it failed of its purpose. In our early tariff legislation we proceeded on the theory of equal treatment to all nations. The limited occasions in the past when it seemed mutually advantageous to enter into a particular tariff agreement with some particular country are conclusive in results. Entertaining originally the intention of offering equality of treatment, special commercial relations that were entered into with certain nations resulted in inequality of treatment. Our history along this line is of value in this discussion.

Prior to 1890 the United States attempted to negotiate tariff treaties with six countries—with the German Zollverein in 1844, which was not ratified; with Canada, in 1854, which was ratified, but abrogated in 1866; with Hawaii in 1875, which was ratified and extended in 1887, remaining in effect until 1900; with Spain, in 1884, for Cuba and Puerto Rico, which was not ratified; with the Dominican Republic, in 1884, which was not ratified; and two treaties with Mexico, the first of which, in 1856, was not ratified by the Senate, and the second of which, though ratified by the

Senate, never became effective because the necessary legislation was not enacted by Congress.

The treaty with the Zollverein was not ratified by the Senate. The treaties with Spain and the Dominican Republic, negotiated by President Arthur, were withdrawn from the Senate by a great Democratic President, Grover Cleveland, and never resubmitted. A treaty with Great Britain relating to the British West Indies, which had been in process of negotiation, was not consummated because the British Government withdrew from further negotiations when it learned the fate of the Spanish treaty. So, out of these protracted efforts to secure tariff bargains, only two treaties—those with Canada and with Hawaii—became effective.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. FESS. I yield.

Mr. HATFIELD. Has the Senator from Ohio in his investigation found where a Chief Executive has ever asked for authority so extensive as asked for in this legislation?

Mr. FESS. No; there has never been a case in our history when any President asked for any such authority as this.

Mr. HATFIELD. And in all the reciprocity relations that heretofore have existed between this country and other nations, it was necessary to have the approval of the Senate before they were put into effect.

Mr. FESS. Oh, certainly. In other words, there never was any effort to make a bargain with any country except through treaty channels, and the treaty had to have the approval of this body.

Mr. HATFIELD. What vote does it take on the part of the Senate to approve such treaty?

Mr. FESS. Two thirds.

The treaty with Canada remained in force only 11 years. It was abrogated by the United States because of the hostile sentiment aroused against Canada during the Civil War, because of the need of additional revenue and because of the dissatisfaction of the fish, coal, and lumber industries of the United States.

The Hawaiian bargaining treaty led to grave international complications. When the treaty went into effect the British Commissioner to Hawaii notified the Hawaiian government that under the most-favored-nation clause of the British-Hawaiian Treaty of 1851—

Her Majesty's Government cannot allow of British goods imported into the Sandwich Islands being subjected to treatment other than that which is accorded to similar goods of American origin.

The German Government also raised the question of most-favored-nation treatment, although it had no treaty with Hawaii upon which to base a claim.

The British Government insisted upon its claims, and Hawaii sent an envoy to Europe to negotiate with the British and German Governments. The American minister wrote to James G. Blaine, then Secretary of State, that "the British claims are still held over the head of the Hawaiian government."

The situation called from Mr. Blaine the emphatic statement to the Hawaiian government that—

This Government cannot permit any violation, direct or indirect, of the terms and conditions of the treaty of 1875. The treaty was made at the continuous and urgent request of the Hawaiian government. It was expressly stipulated "on the part of His Hawaiian Majesty that so long as this treaty shall remain in force he will not make any treaty by which any other nation shall obtain the same privileges relative to the admission of any article free of duty hereby secured to the United States."

So runs the quotation from our then Secretary of State, James G. Blaine, to the Hawaiian government.

The extension of the privileges of this treaty to other nations under the most-favored-nation clause in existing treaties would be as flagrant a violation of the explicit stipulation as a specific treaty making the concession. The Government of the United States considers this stipulation as of the very essence of the treaty and cannot consent to its abrogation or modification, directly or indirectly.

If any other power should deem it proper to employ undue influence upon the Hawaiian government to persuade or compel action in derogation of this treaty, the Government of the United States will not be unobservant of its rights and interest and will be neither unwilling nor unprepared to support the Hawaiian government in the faithful discharge of its treaty obligations.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. FESS. I yield.

Mr. HATFIELD. It was the then distinguished Secretary of State, Mr. Blaine, who initiated the idea of reciprocal trade agreements, was it not?

Mr. FESS. It was.

Mr. HATFIELD. Possibly he was the pioneer in that movement, was he not?

Mr. FESS. He was.

Mr. HATFIELD. But he never thought of asking the Congress of the United States to abrogate its power in favor of the Chief Executive in carrying out the idea of reciprocal trade relations?

Mr. FESS. Certainly not. The Senator from West Virginia is emphasizing the importance of the historic fact that what has been done in the effort toward reciprocal tariff arrangements in this country, which has usually been linked with the names of Blaine, McKinley, and others, cannot be cited as a justification for the pending proposal, for that now before us is as different from the previous proposals as the day is from night.

This threatening controversy led to a change of ministry in Hawaii and to the acceptance, finally, of the position taken by America's dauntless Secretary of State. Thus, of the two bargaining tariffs negotiated prior to 1890, one could not stand the stress of war-time passions and the dissatisfaction of injuriously affected industries, and the other drew us into the dangerous whirlpools of international complications. This is our history of tariff bargaining through the constitutional channel of treaty making down to 1890.

Mr. HATFIELD. Mr. President, will the Senator yield again?

Mr. FESS. I yield to the Senator from West Virginia.

Mr. HATFIELD. If that be true, the complications resulting from the pending proposal would be far greater than the complications which might have arisen under treaty agreements ratified by the Senate?

Mr. FESS. I should think so. If there were likely to be any liability or any possible involvement incident to a treaty, it would almost certainly be disclosed in the discussion in this body, and the ratification of such treaty would require a two-thirds vote before it could become binding. For that reason I should think that the dangers in connection with reciprocal agreements could be and would be avoided if they could be negotiated through the ordinary channels of treaty making. In the consideration of such a question, the difference between the judgment of 1 man and the judgment of 96 men ought to be considered very outstanding.

Mr. HATFIELD. In other words, the discussion that would necessarily take place amongst the 96 men in the Senate of the United States would bring about such an expression of opinion as would go far toward disclosing and averting any complications or any embarrassments which might result to the Government, as contrasted with what might happen if the entire responsibility were left with the Chief Executive of the Nation and those associated with him representing the executive department of the Government of the United States?

Mr. FESS. I think the Senator's conclusion is justified.

Mr. HATFIELD. Mr. President, will the Senator yield further?

Mr. FESS. Yes.

Mr. HATFIELD. Has the Senator given any consideration to the fact that under the responsibility which will go with the enactment of this proposed legislation, the Chief Executive by secret treaty may carry on and make these contracts which will extend over a period of at least 3 years, and for the Congress of the United States to abrogate them in any way will be to repudiate a contract made by the Chief Executive?

Mr. FESS. That involvement is possible. The Senator makes an inference that ought not to be overlooked. We have been asked to give this authority to one man largely because of the difficulty of reaching bargains in the open,

which, it is said, could be obviated by reaching them in secret. It has been stated over and over again that that is one of the difficulties we want to obviate by this method.

The suggestion made by the Senator from West Virginia about the safety of having tariff bargaining brought about through the channel of treaty making rather than as an Executive function calls attention to a recent episode that has become very historic. I say what I am about to say not by way of criticism of President Wilson, because I was a great admirer of his, but everyone knows that had the treaty-making power been limited merely to negotiations conducted by the President this country today would be in the League of Nations. I recall how a small group of Senators sent out warning against involvement in that covenant, lest we might become party to it, and I remember how the late President Wilson referred to them as a "band of willful Senators" and how it wrought upon his mind, because he was so completely committed to the idea that that was the greatest single thing he could do in the direction of averting war. I think I do not go too far when I say that the failure to ratify that covenant almost, if not entirely, cost him his life. My own view of the matter is that it would have been a fateful step for this Government to have gone into the League of Nations. I was one of the few Members of the House of Representatives at that time who gave reasons at once after the covenant was first printed on the 14th of February 1919 why we must not become a party to it unless the covenant was amended. I was called down in rather brutal language by my warm friend, William Howard Taft, who was then ex-President, and who said that I "talked like a wild man." I think history since that fight has justified a million times the position that some of us took on the League of Nations controversy.

There is not a person in the country who does not know that had it not been for the opportunity in this body for unlimited debate in opposition to that covenant, thereby getting the facts before the people, we would have taken that step. That, I know, is rather a far-fetched illustration, but it does call attention to the possible danger of giving to the Chief Executive treaty-making power without requiring ratification of the treaty by this body.

Mr. HATFIELD. Mr. President—

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from West Virginia?

Mr. FESS. I yield.

Mr. HATFIELD. I hardly agree with the Senator that it is a far-fetched illustration. I think it is absolutely in line with the power that is being asked by the Chief Executive to regulate tariff rates. Had the then President of the United States, Mr. Wilson, been given the same power by the Congress of the United States, as the Senator properly has stated, we would now be an integral part of the League of Nations. There is little difference between the power which the present incumbent of the White House is asking and the power which President Wilson failed to ask of Congress before he undertook to negotiate his treaty which would have let the United States into the League of Nations.

Mr. FESS. I thank the Senator for his interpretation and his opinion.

Mr. President, there is a cycle of thinking in the country, more vocal today than I have ever known, tending to ignore all the lessons of history. It is said that the past holds no lessons for the present nor suggestions for the future. We all well know of the derision of the past by modern statesmen. The lesson of history is offensive to them. To be up to date you must not merely subscribe to all the folly and foibles of the new deal but to be modern and progressive it becomes necessary to ignore the voice of history, to junk fundamentals, embrace revolution in the fatuous name of evolution, and join the economic adventures in their great crusade against the hopeless failures of our fathers and supplant the institutions of 140 years of growth by a modern system, the handiwork of the reformers fresh from the college cloister, too often the incubator of theories—some sound, but most mere fancies—of use when confined to the classroom as mental exercise for students, but dangerously harmful

when seriously applied in the field of governmental experimentation.

After 1890 our further experience with bargaining tariffs continued to be disappointing and unsatisfactory. The tariff bill introduced early in 1890 by William McKinley became the vehicle through which the realization of reciprocity ideals was attempted, although the bill as introduced in the House of Representatives by Mr. McKinley contained no reciprocity provisions. It is this legislation to which the advocates of the pending measure wrongly allude as a precedent for the present proposal. In a letter to President Harrison, Mr. Blaine said that the lack of shipping facilities to reach the South American markets had been the chief obstacle in the way of increased exports, and pointed out that nearly all articles exported to those countries were subjected to excessive customs duties, and that over 85 percent of the American imports from Latin America—coffee, cocoa, rubber, hides, dye, and cabinet woods—were admitted free of duty. He advised that an amendment should be submitted to the House bill authorizing the President to declare free entry to the products of any nation of the American Hemisphere whenever such nation should admit free of duty American foodstuffs, lumber, furniture, manufactures of iron and steel, cottonseed oil, and refined petroleum. This amendment, unlike the pending proposal, provided a definite program, authorized by legislation, and did not leave the field of negotiation wide open to Presidential discretion and tariff bargaining upon the sole responsibility of the Executive. It did not violate the taxing power as provided in the Constitution, which remained a legislative function. It was made, as the pending resolution proposes, a Presidential prerogative.

Provisions for this limited, constitutional reciprocity were inserted by the Senate through proper legislative methods, the bill as reported to the Senate having contained, like the House bill, no such provisions.

In a special message to Congress, President Harrison transmitted the letter from Mr. Blaine, and alluding to the statement that over 85 percent of the imports from Latin America were admitted free, he said:

If sugar is placed upon the free list (as it was in the tariff bill, a bounty being substituted for the duty) practically every important article exported from those States will be given untaxed access to our markets, except wool. The real difficulty in the way of negotiating profitable reciprocity treaties is that we have given freely so much that would have had value in the mutual concessions which such treaties imply.

Mr. Blaine, in a speech on August 29, 1890, said it would be a great mistake to repeal the duties on so large an amount of imports from Latin American countries without an attempt to secure in return reciprocal arrangements which would stimulate our export trade to Latin America. He said that he favored "a system of reciprocity not in conflict with the protective tariff but supplementary thereto." Here is the distinction ignored by the present advocates of tariff bargaining in the pending tariff proposal.

Mr. HATFIELD. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from West Virginia?

Mr. FESS. I yield.

Mr. HATFIELD. The Senator from Ohio is aware of the fact that there is now in existence a treaty which has been negotiated between the Governments of Colombia and the United States. The authorities representing both sides of the contract, I take it, are waiting for the passage of this measure through the Senate before the treaty is submitted for approval. Does the Senator know anything about that matter?

Mr. FESS. I have not the facts about it.

Mr. HATFIELD. I communicated with the Assistant Secretary of State, Colonel Thayer, and he admitted that such a treaty is in existence and has been in existence since last December. I asked for the substance of the treaty, and he declined to give it to me; but he did send me a news release which dealt with the fact that such a treaty does exist.

Mr. FESS. Does the Senator say that the Assistant Secretary of State declined to let the Senator see the treaty?

Mr. HATFIELD. That is very true.

Mr. FESS. I cannot understand that.

Mr. HATFIELD. In my address on May 1 I read the letter which I received from the Assistant Secretary of State and made it a part of my remarks on that occasion.

Mr. FESS. The proper course would be to introduce a resolution in the Senate asking that the information be sent to the Senate.

Mr. HATFIELD. I may say to the distinguished Senator from Ohio that I am now having prepared a resolution which I shall introduce tomorrow, I hope, with the purpose of asking to have the treaty sent to the Senate. It seems to me that the Committee on Foreign Relations should take up this matter, and bring before it some representative from the office of the Secretary of State with the idea of inquiring into the matter.

Mr. VANDENBERG. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. DIETERICH in the chair). Does the Senator from Ohio yield to the Senator from Michigan?

Mr. FESS. I yield.

Mr. VANDENBERG. The Senator from West Virginia is making an amazing statement.

Mr. FESS. He certainly is.

Mr. VANDENBERG. I wonder if I have correctly understood it. Does the Senator from West Virginia state that we have already negotiated with Colombia, through our State Department, a reciprocity treaty which could not be made effective unless this bill should be passed?

Mr. HATFIELD. That is my understanding; and my understanding is based on the conversation I had by telephone with the Assistant Secretary of State, Dr. Sayre.

Mr. VANDENBERG. In other words, the Senator is stating that without waiting for congressional approval of this revolutionary grant of power to the Executive a treaty already has been negotiated, in advance of obtaining such power?

Mr. HATFIELD. Not only is that true, if the Senator from Ohio will permit me—

Mr. FESS. I yield.

Mr. HATFIELD. But I understand that there is a tacit agreement between the State Department authorities and the authorities of Germany whereby, if this reciprocal legislation shall be passed, the United States will exchange so many million pounds of lard for so many dyes that will be manufactured by German chemists instead of being manufactured in the United States of America, as is the case at the present time.

Mr. VANDENBERG. I hope the Senator will persist in his proposal to inquire by resolution whether there are any existing commitments in the State Department in respect to this subject.

Mr. HATFIELD. I may say to the distinguished Senator from Michigan that I am having the resolution prepared, and it is my purpose to submit it tomorrow.

May I make a further observation?

Mr. FESS. Just a moment. The serious thing is not that such a treaty is being framed but that a Senator is denied, by a responsible member of the State Department, the opportunity of knowing what the treaty is. That is a serious situation; and I do not think there is any Member of this body who will not say that we want all the facts with regard to it.

Mr. HATFIELD. I may say to the Senator from Ohio that the office of the Secretary of State has made the record, and it is to be found in the CONGRESSIONAL RECORD of May 1. I may say further to the Senator, respecting the imports that heretofore have come from Colombia to the United States, that 90 percent of them are represented by coffee and crude oil.

Mr. LONG. Mr. President, before the Senator from West Virginia takes his seat, let me inquire whether the Senator understands that a large quantity of tallow is about to be moved into this country, and that there have been tentative negotiations along that line? I have received, through

such sources as were available to me, the information that negotiations are in process to move a large quantity of tallow into this country.

Mr. HATFIELD. Mr. President, I have not had any information upon that subject; but I have good reason to believe that there are many movements in the direction of reciprocal treaties which will involve not only the agricultural industries of this country but the chemical industry and many other industries.

Mr. FESS. Mr. President, if the Senator from West Virginia is correct in the understanding of this matter that he has expressed, it is positively the most astonishing thing that has come to my attention. I have never said, here or elsewhere, very much about the trend toward assumption of Executive authority. I have felt it deeply; and the evidences are cumulative that we are rapidly drifting into a stage of assumption of Executive authority that the country will not tolerate. This is one of the items. It is an absolutely unbelievable thing to me.

Now, I shall proceed with the history of what is known as the "McKinley reciprocity proposal."

The McKinley Tariff Act was approved October 1, 1890, and contained provisions for reciprocity through penalty duties prescribed by Congress itself on five specified commodities—sugar, molasses, coffee, tea, and hides—which were to be imposed automatically when these commodities were imported from countries whose duties on American products were, in the opinion of the President, "reciprocally unequal and unjust." Please note that these provisions were punitive, embodying penalty duties. Thus the reciprocity provision of the act of 1890 was based on the principle of penalizing, not on that of promising tariff reductions in return for supposititious and dubious concessions. That proposal was legislative and not Executive, and it was punitive to insure protection, not to abandon it.

Ten reciprocity agreements were arranged under the terms of the McKinley Act, most of them being designed, especially on the part of Germany and some other countries, to obtain the advantage of shipping beet or cane sugar into our market free of duty.

In 1892 Grover Cleveland was for the second time elected President, and with him a Democratic House and Senate. A tariff bill was introduced in December 1893 and approved October 3, 1894. This Democratic tariff law of 1894 repealed the reciprocity provisions of the act of 1890. The report of the Ways and Means Committee declared that these provisions had brought "no appreciable advantage to American exporters." Further to insure the repeal of the reciprocity provisions of the McKinley law, the House of Representatives passed a resolution specifically providing for repeal.

The Republicans regained control in 1896. In the meantime popular sentiment for reciprocity had gained headway, and the Dingley Tariff Act of 1897 reincorporated provisions designed to secure reciprocal concessions and advantages. The President was authorized, by specific legislation enacted by Congress, to negotiate with the governments of countries exporting argols, crude tartar, brandies, wines, paintings, or statuary with a view to the arrangement of commercial agreements in which reciprocal and equivalent concessions might be made.

John A. Kasson, of Iowa, was appointed a special commissioner to negotiate agreements under the provisions of the act. In December 1899 the Kasson treaties were submitted to the Senate; but no action was taken in 1900 and 1901 beyond extending the time limit for ratification. Mr. Kasson strongly supported ratification, contending that the treaties were unquestionably consistent with the principles of protection; that the United States was not sufficiently sure of its foreign markets to abandon a policy of reasonable protection for its home market; but he contended the home market was so safeguarded for American producers as to justify moderate concessions to aid the export trade. Disheartened by the failure to ratify the treaties, Mr. Kasson resigned in March 1901. Action on the treaties was abandoned, and no mention of reciprocity was contained in President Theodore Roosevelt's message of 1904.

In 1903 the convention with Cuba was ratified.

In 1903 an agreement for special treatment of United States imports into Brazil was arranged.

In 1909 President Taft arranged with the Canadian Government for a reciprocity agreement between the United States and Canada, but Canada refused to ratify it in 1911.

This, in brief summary, recounts our experiments with reciprocal and bargaining tariffs. It is not a record that prompts us to look with favor upon President Roosevelt's prescription of bargaining tariffs for economic ills, and for the expansion of our foreign trade. We are now told that we can no longer rely upon the treaty route. It is too difficult to reach conclusions. Delay in ratifying treaties, or the failure of the Senate to ratify some proposed treaties, cannot justify, as is claimed by spokesmen of the administration, the abandonment of legislative precedents, the violation of constitutional limitations on the power of the Executive, and the abrogation of the rights and prerogatives of Congress, as proposed in this bill. If a treaty cannot win the approval of the Senate as the Constitution provides, it is far better that we have no such treaty, and it is surely no justification for unconstitutional procedure.

If a treaty affecting the mining, fishing, agricultural, or manufacturing industries of the country cannot obtain the consent and approval of the legislative branch of the Government, it is for the best interest of our country that we have no such treaty.

The unimpaired maintenance of our constitutional checks and balances as between legislative and executive functions, and the continuance of our democratic form of government, are of vastly more importance than foreign markets purchased at the sacrifice of our rights and liberties. As a general rule the negotiation of just and equal reciprocity treaties is an intricate, difficult, and exacting task. To be fair to all domestic and foreign interests involved is well-nigh impossible. Of such treaties as we have entered into in the past, few, if any, have proven satisfactory, and most of them soon outlived whatever usefulness they had. These results do not argue for speed, but rather caution and the taking of time. It is claimed that if we could rush into them more speedily, avoid the delays encountered in the past, eliminate the constitutional right and duty of the Senate to advise and concur, and confer upon the President the sole power to negotiate and approve the compacts, we would be equipped with an instrumentality to solve the economic problems of a troubled world.

Mr. President, it is this trend which must be alarming to every student of our American system. I wonder how many people realize how far we have drifted away from the constitutional barriers, checks, and balances which hold nicely in their relationship the judicial and legislative branches of the Government.

I was tremendously impressed with the possible involvement of President Roosevelt's closing address to the House of Representatives and the Senate in joint session, when, appearing before us to ask for a certain type of legislation, he made the statement frankly that what we needed in this country, in contradistinction to the equal power of the coordinate departments, was a union of these departments. Those were his words.

Where is the student who can comprehend the full meaning of that? It is the comment not only of American authors, but the best foreign opinion which ever expressed itself on the American system of government, that the one outstanding differentiation between ours and all other governments is that this is the one Government which maintains a strict independence of each of the three coordinate departments, where there is an interdependence in relationship, but an entire independence in the exercise of their functions. That differentiates ours from every other government on earth today.

Consider Great Britain. What is the power of the King in Britain today? The power there is the House of Commons. Once it was "The King, the Lords, the Commons." Later it became "The King, the Lords, the Commons." But today it is "The King, the Lords, the Commons." That is because the House of Commons have all the power in the British Empire today, both legislative and executive.

Mr. HATFIELD. Why "the Commons"?

Mr. FESS. It is because of the drift toward giving more voice to the people who are represented in the Commons. Here in our own country, born out of the struggle between the executive and the legislative, there is this differentiation, which maintains the absolute independence of the various departments in the exercise of the functions assigned to them.

Why was Thomas Jefferson so bitter against the aggressions of Great Britain? I will state the reason, which all Senators will readily recall. The Legislature of the State of Virginia, of which Thomas Jefferson was a member, was adjourned by a provincial governor appointed by the British King. The great apostle of local government and individual liberty in government, sitting as the elected representative of his own people, to legislate for their welfare, was sent home. By whom? By an officer appointed by the King of Great Britain. That was only one of the incidents which led to a jealousy on the part of our people to maintain a strict relationship between the three coordinate departments. Whatever might have been in the mind of President Roosevelt when he commented upon the change of relationship between the legislative and the executive, when he said that what we need is a union of them, the possibilities are tremendously significant.

There has been much said about the trend toward Executive authority. I am the last who would charge, here or elsewhere, that the President of the United States wants to be a dictator. I do not believe it. But I do say that I am greatly distressed over the step-by-step progress by which we are getting away from the legislature, gradually giving the power over to the Executive.

Mr. President, let me illustrate what I mean; and I am glad to have my learned friend the Senator from Maryland [Mr. TYDINGS] listening to what I am saying, because I know that he and I do not differ very widely in respect of what is in my mind.

These departments have been so sharply differentiated, and they are so jealous of their prerogatives, that the President is always confined in his legislative functions to the signing of a bill or vetoing it, and any effort toward dictating what shall be done, anything beyond a message to inform the people of the state of the Union, is always resented.

For the last 20 years we have been drifting away from that standard, but we have never reached such a stage as that in which we now are. Let me illustrate:

A few days ago a message from the President was read concerning a problem of legislation. The moment the clerk ceased the reading and the message had been ordered referred to the proper committee, the chairman of the committee to which the message had been ordered referred, rose in his place and presented a bill, which had been framed at the White House and sent here, carrying out the principles written in the message. In other words, we are in an emergency situation. We are doing things none of us would endorse. The only excuse is that "These are emergencies, and we have nothing else to do. The President wants us to do it. The American people are back of the President, and therefore we are going to do it."

We get the President's advice; and not only that, but the bill is written at the White House, and then we undertake to put it through as it is written.

Think of doing a thing of that kind 25 years ago! Think of coming before either House of Congress with a bill sent from the White House! It would have created such a furore that it would not have gotten anywhere. Today, however, we say there is nothing else to do; that the President has the responsibility, and the President ought to have the power. He has with him counselors. They ought to be the best. If he believes this is the thing to do, all we will ask him to do is to send it to us, and we will put it through.

That is not wise. We say it is limited to emergencies. Every now and then people raise the question whether or not we are totally abandoning our fundamental American principles. I think we are slipping along that way. Step by step we are doing it.

One of the key men of the present administration appeared in my home town to speak to the students of the college of which he had been a professor before he was given his position in the Government. In that speech he used language which has been used by many of the key men of the Executive Department. He talked about revolution. A friend of mine read a report of the speech in a local paper, and as the two men were very warm friends, my friend wrote to the speaker and said he hoped he was being misquoted. In the letter sent to the speaker who talked revolution, my friend used this language:

I am convinced that the propaganda of revolution by those temporarily in positions of administrative authority is doing much to defeat recovery. The President, in his recent New York address, stressed the harm being done by fear, and the necessity of substituting confidence for fear before recovery becomes a reality. This is true. Recovery will be unattained as long as fear is the motive of action. No instrumentality can more effectively entrench fear in the minds of men than to promote the idea that this administration stands for revolution.

Then the writer added:

But I wish to express a thought beyond the fact that such actions are retarding recovery. I, together with millions of Americans, regardless of party, or race, or belief, am giving unswerving loyalty to this administration and to its efforts for recovery. If, under the cloak of this loyalty, this administration is promoting the purposes of revolution rather than of recovery, then a different issue is presented to the country. It is an issue of such unprecedented importance that it should be decided by the country and not imposed upon it by administration officials.

That was written to a leading figure, a man prominent in this administration, in commenting upon his address at the college.

I now read from the letter of this key man, written in reply to the writer of the letter from which I have just read:

I must say that I was somewhat surprised by your letter of the 17th.

Apparently you did not take Franklin Roosevelt seriously when he promised that if elected he would inaugurate a new deal. Knowing Roosevelt, I knew that when he said that he was for a new deal he meant a new deal and not a return to the old methods and the old evils. Certainly when the people of the country swept him into office and swept the old dealers out, they were voting for a change in economic arrangements and not for a return of the old economic order.

In the face of these revolutions we have attempted to conduct our economic life with a set of individualistic ideas adapted to conditions that existed in preceding centuries. The result was bound—

Note this language:

The result was bound to be antisocial, and, as it turned out, also immoral and irreligious. It is natural, therefore, for those of us who really believe in the new deal to speak of it as a revolution; for we know that the recovery that you seem to think we should aim at is only a return to the old speculation which is to bring again in turn the old depressions and ruin in its wake.

Whatever you may think of President Roosevelt's new deal, you certainly cannot accuse him of misleading the people of the country into thinking that all he wanted was recovery of things as they were. He referred the other night over the radio to the "edifice of recovery" that his administration was attempting to construct—

And so on.

This man, who happens to be a personal friend of mine, who is a very brilliant scholar, and who is a great social force in America, and who was called to Washington because of his great prestige, makes no apology. He wanted to get away from what he said is antisocial, immoral, irreligious. What is it? It is the capitalistic system, it is the individualistic system which he is against. People say to me, "Why, this is not the abandonment of any principles in the United States." I am afraid it is.

In view of the fact that I read part of this letter, I think I ought to read the second letter which my friend wrote to this key man in Washington, who, as I said, is also a friend of mine:

Your revolution, taking from the people their liberties and substituting therefor the State's power, is not a new deal but an old deal which in the experience of humanity has heretofore been a bad one. Such historical inaccuracy affords little basis for confidence in one's ability either to properly appraise the present or to mold the future.

I cannot agree with such an appraisal of the life of America or of western civilization. It is true that society is not static, and that a free society such as has obtained in America, infused as it is with the principle of living growth, is subject to change and evolution. It is likewise true that society is never perfect, and that every period of our history had had and will have its attendant evils. Those evils have been met and removed through the agency of reform, not of revolution.

And so on.

I have read this letter publicly now for the first time, although it has been in my possession since November 1933 during all this talk about Dr. Wirt and Professor Tugwell and the others who are constantly quoted here.

Mr. President, is there anyone who does not see a suggestion of revolution in the statement that this is an anti-social, immoral, irreligious civilization of ours which must be reformed? Some persons call it "bloodless" revolution. We have suggestions coming to us to pass over to the President such powers as we have been giving him. We have suggestions to give to the Secretary of Agriculture the power we gave him under the Agricultural Adjustment Act, and after 10 months of the most dismal experience we are supplementing it by compulsion, until we are saying to the farmer, "the time will be here when you cannot put a plow in your field or turn a furrow without first getting advice from Washington."

The proposal now is to give to one man or a set of men the power to agree to suspend laws; and then, when such agreements shall be approved by the President, they become the fair-trade practice and have the force of law with the power of imposing a penalty not in the courts, not by a jury, but by the enforcer of the code. Do you say, Mr. President, that does not mean anything; that that is not a trend away from American ideals? It is the most amazing course any nation ever undertook, especially a nation such as ours.

That, Mr. President, is not the only thing that has been done or said. I presume that Dr. Tugwell is one of the clearest-headed thinkers of the numerous experts who have been brought to Washington. Dr. Tugwell has been a rather copious writer as well as a frequent speaker. Nobody, as a rule, can fail to understand him, because he speaks very clear English. In a recent book Dr. Tugwell says:

The flow of new capital into different uses would need to be supervised. \* \* \* If there were a system of planning \* \* \* which allocated to specific industries capital sufficient to produce an amount of goods which would be taken by consumers at the price possible with capacity production, and no more, prices could be lower than they are at present. The surplus-investment capital could then be assigned to other industries.

There is a suggestion, Mr. President, coming from what is pretty generally known as one of the brilliant minds connected with the group of experts here advising the President, that we ought to have a national planning system, with authority in Washington to say how much capital may go to this industry, how much to that, and how much to the other; and that it should be allocated. Think of the possibilities. Could such a plan be hatched in a brain in America with the background of American liberty? My God, what would be the thought of such a man as Thomas Jefferson, if he were alive today, on hearing the doctrine proclaimed that, if a man wants to go into business, the capital to be put in the business is to be allocated to him by authority of the Government?

Then the second principle that Dr. Tugwell enunciates is: Prices would have to be controlled.

There is price fixing. The citizen is not only told how much he may sow, but how he will reap it; how much he will keep for home consumption; what part he may sell, at what price he may sell it, to whom he may sell it, and under what conditions he may sell it. That is a fine situation, is it not—price fixing?

Third—

Industrial associations are to be set up which must receive certificates of convenience and necessity from the Government, with authority to fix conditions of competition, maximum prices, and minimum wages, working under a control board.

The further you go the worse it gets.

Mr. HATFIELD. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. LOGAN in the chair). Does the Senator from Ohio yield to the Senator from West Virginia?

Mr. FESS. I yield.

Mr. HATFIELD. Has the distinguished Senator from Ohio any idea as to the amount of money expended by different industries in America yearly in the way of experimentation in order to develop the highest efficiency and to unfold and reveal new processes and uses, all for the welfare of the country?

Mr. FESS. I do not have the figures, but they are tremendously large, I know.

Mr. HATFIELD. I will say to the distinguished Senator from Ohio that chemical research and control for the chemical industry and the chemical processing industries is estimated to approximate \$75,000,000 to \$100,000,000 annually. In fact, Mr. President, there are few, if any, industries in America that could operate successfully without the chemical equation entering into their manufactures. This large sum for research has for its purpose the unfolding of the undeveloped equations in chemistry, thus giving to the American people since the World War a chemical industry sufficient for domestic needs.

Mr. FESS. Mr. President, I wonder what would be the future of the chemical industry if, instead of its being under the large impulse of aspirations for profit, it were put into the deadening hands of Government and made a regimented industry? Where would it then get? It would be under such an influence as that said to be exercised by the peculiar bird of Australia which, reaching a sleeping citizen, gradually fans him into complete forgetfulness from which he never awakens. That is the situation we are in; and here is the keyman of the present administration offering such contemptible ideas to America; and yet it is said that we are not drifting away from American ideals. I will have something more to say about that later on, not today but at some other time; I am too full for utterance just now.

Mr. President, I now quote from a Representative in Congress who came before the Committee on Ways and Means asking for this proposed legislation:

The situation the world over at this time, as I understand it, is that all of the other countries practically are in a position now, under the tariff system in vogue in those countries, to act promptly through their ministerial or executive branches of the government and to negotiate trade agreements, and we alone are standing out here with such rigidity in our tariff policy that we cannot act fast enough to protect ourselves.

That seems to be one of the spurs which are used for the purpose of urging action on this bill.

In reply to that interrogative statement, Secretary Wallace said:

Yes, sir. Secretary Hull made that point abundantly clear this morning.

I am quoting from Committee on Ways and Means hearings, part I, page 49.

Assistant Secretary of Commerce Dickinson urged the conferring of this tariff power upon the President, "where", as he said, "it can be exercised with speed and promptness." (Ways and Means hearings, pt. 3, p. 30.)

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. FESS. I yield.

Mr. HATFIELD. The Senator is aware of the fact that the distinguished Secretary of State when a Member of this body introduced a measure repealing the flexible-tariff provision of the present tariff act?

Mr. FESS. Yes; I remember that, and I think I referred to it in the earlier part of my address. Such a program accentuates the dangers of the proposal to grant this power to the President. It denies to domestic industries fair warning of contemplated changes in the tariff duties under which they plan and conduct their business.

If speed is what is needed and if secrecy is essential, then sacrifice is bound to result. It threatens labor with sudden dislocation and unemployment. It aggravates instead of assuages the troubles and unrest of our citizens and intensifies the dangers inherent in tariff bargaining. It multiplies the faults of the old method and retains none of its

merits and safeguards. It involves such grave possibilities that haste should be avoided. I commend the warning of Abraham Lincoln.

As though conscious that this is true, Secretary Hull said in his testimony before the Ways and Means Committee, part I, page 4:

It can be stated with emphasis that each trade agreement undertaken would be considered with care and caution, and only after the fullest consideration of all pertinent information. Nothing would be done blindly or hastily. The economic situation in every country has been so thoroughly dislocated and disorganized that the people affected must exercise patience while their respective governments go forward with such remedial undertakings as the proposed bilateral bargaining agreements.

Assistant Secretary of State Sayre said that care, caution, and research would be necessary before negotiations are completed. "The agreement is not going to be made", he said, "until both sides are convinced that there is a sound basis for a trade." (Ways and Means hearings, pt. V, p. 5.)

The argument that this reciprocal trade proposal is necessary to expedite reciprocal tariff bargaining and introduce a new element of speed and promptness into the negotiations is refuted by the admissions of the spokesmen of the administration.

Instead of speed they now suggest a thorough study; instead of rapidity they propose research; instead of promptness they urge patience. In spite of these assurances of caution, the pending proposal carries Executive authority to tax our people by a charge of duty without survey and recommendation of any sort and even without hearing on the part of the citizens to be affected.

Mr. ROBINSON of Arkansas. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Arkansas?

Mr. FESS. I yield.

Mr. ROBINSON of Arkansas. Does the Senator take the position that such hearings as may be had should be public?

Mr. FESS. I should think so. I will say to the Senator from Arkansas that in matters of an international character where treaties are involved there ought to be an element of secrecy, but when it comes to matters of bargaining or trade, I think open covenants openly arrived at would be the better plan.

Mr. ROBINSON of Arkansas. Why does the Senator distinguish as to hearings between a treaty and an executive agreement? The object of an executive agreement is to make a mutually favorable bargain between the two contracting nations. Does not the Senator realize that if the matter were to be heard in public and at length it would tend to embarrass both the governments which were prospective parties to the agreement and thus prevent the accomplishment of the purpose in mind?

Mr. FESS. I think the Senator is drawing a wrong conclusion. Where we are dealing with the tariff we are affecting individuals all over the country involved in the particular industry with which we are dealing, and that ought not to be done in secret.

Mr. ROBINSON of Arkansas. Of course, if the hearings which are to be held should proceed in the open it would place both parties to the contract at a very great disadvantage with respect to the desires and interests of other nations which are competitors of the contractors in commerce. In other words, if we made public all the details of the proposed bargain, the competitors would attempt to anticipate our success by seeking to obtain a bargain for themselves.

Mr. FESS. I do not agree with the conclusion the Senator has stated.

Mr. ROBINSON of Arkansas. Does the Senator feel that all hearings should be public?

Mr. FESS. I think all hearings dealing with matters like the tariff, or, let us say, trade agreements, ought to be public.

Mr. ROBINSON of Arkansas. What I cannot understand is why the Senator distinguishes between the tariff and other matters of public concern.

Mr. FESS. There is a wide difference where there is involved a principle of proper international relationship which might contemplate some delicate question which ought to be considered in secret. I have always recognized there is strength in that contention. But where it is a matter of bargaining for a tariff agreement, where we grant some concession and receive some concession, then the hearings should be conducted in the open.

Mr. ROBINSON of Arkansas. Where a mere trade agreement between two nations is involved, does the Senator feel it is to the advantage of those seeking to enter into the bargain to advise their competitors fully of all they have in mind?

Mr. FESS. Whatever might be accomplished in secrecy, if thereby an error be committed, such error could be avoided if the negotiations had not been conducted in secrecy. I think I am justified in my contention that tariff bargaining should not be conducted in secrecy.

Mr. President, in the light of these facts, with all the efforts of the proponents to overcome the solid objections of the producers and wage earners of the country, to mitigate the dangers of their proposal, and to conciliate the opposition to their program, the pending measure still remains a menace to cordial international relations and a threat to many domestic industries.

Mr. ROBINSON of Arkansas. Mr. President, will the Senator yield further?

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Arkansas?

Mr. FESS. I yield.

Mr. ROBINSON of Arkansas. The Senator realizes, does he not, that our competitors for foreign commerce have been indulging their right to enter into executive agreements or into arrangements similar to the executive agreements contemplated by the pending measure, and that they have already obtained very great advantages over our Government by reason of the agreements which they have heretofore made?

Mr. FESS. And because they did that, ought we to do the same thing?

Mr. ROBINSON of Arkansas. The Senator does not assume that circumstance has caused hostility on our part toward the foreign nations so promoting their own advantage, does he? Why should we assume that if we shall pursue the course to which they have resorted we will give an affront when they have given us none?

Mr. FESS. I think it is much wiser for us to pursue the American idea than to borrow anything which European countries are practicing. Their interests are not ours.

Mr. ROBINSON of Arkansas. Under that course, which has prevailed during the last few years, all international commerce has been dwindling and our foreign commerce has been shrinking more rapidly and out of proportion to the foreign commerce of our competitors.

Mr. FESS. It is very obvious that the Senator from Arkansas was not present when I discussed that phase of the subject, because that situation is easily explained.

Mr. ROBINSON of Arkansas. If the Senator from Ohio will permit me, the Senator has been speaking now 4½ hours and it has not been possible for me to be present all the time, nor would it be possible for me to remain in constant attendance if he should choose to speak 4½ hours more.

Mr. FESS. I apologize to the Senator. I am likely to speak 4½ hours more if the Senator from Arkansas pursues his present course.

Mr. President, in the light of these facts, with all the efforts of the proponents to overcome the solid objections of the producers and wage earners of the country, to mitigate the dangers of their proposal, and to conciliate the opposition to their program, the pending measure still remains a menace to cordial international relations and a threat to many domestic industries. Abroad it will arouse jealousies and animosities among nations now on friendly terms with us, alienate those nations not included in the agreements or benefited by the bargains, and involve us in international complications and controversies. In this

country it will foster ill feeling and discontent among those whose business and employment are sacrificed in the supposed interest and for the presumed benefit of other groups and other industries. It flaunts the traditional democratic theory of equal opportunity for all and special privileges for none and runs directly counter to the established American policy of equality of treatment for all nations, which is a basic principle of the American tariff policy.

The people of this country are not willing to abandon the American system and adopt the European system. They will not surrender the protective tariff for a bargaining tariff. They will not approve reciprocity negotiations that are not consistent with the principle of protection, and within the limits of the Constitution. They will not substitute an international game of "you scratch my back and I will scratch yours" for our historic policy of equality of treatment for all nations and adequate protection for our own labor and industries.

America will not barter its birthright for a mess of pottage. It will not surrender constitutional government for a personal government. It will not scuttle the Republic and set up a political or an economic dictatorship.

MESSAGE FROM THE PRESIDENT—APPROVAL OF BILLS AND JOINT RESOLUTION

A message in writing from the President of the United States was communicated to the Senate by Mr. Latta, one of his secretaries, who announced that the President had approved and signed the following acts and joint resolution:

On May 15, 1934:

S. 2313. An act providing for the suspension of annual assessment work on mining claims held by location in the United States and Alaska.

On May 17, 1934:

S. 8. An act to add certain lands to the Boise National Forest; and

S. 3144. An act to legalize a bridge across the Saint Louis River at or near Cloquet, Minn.

On May 18, 1934:

S. 696. An act to authorize Frank W. Mahin, retired American Foreign Service officer, to accept from Her Majesty the Queen of the Netherlands the brevet and insignia of the Royal Netherland Order of Orange Nassau;

S. 2080. An act to provide punishment for killing or assaulting Federal officers;

S. 2249. An act applying the powers of the Federal Government, under the commerce clause of the Constitution, to extortion by means of telephone, telegraph, radio, oral message, or otherwise;

S. 2252. An act to amend the act forbidding the transportation of kidnaped persons in interstate commerce;

S. 2253. An act making it unlawful for any person to flee from one State to another for the purpose of avoiding prosecution in certain cases;

S. 2575. An act to define certain crimes against the United States in connection with the administration of Federal penal and correctional institutions and to fix the punishment therefor;

S. 2841. An act to provide punishment for certain offenses committed against banks organized or operating under laws of the United States or any member of the Federal Reserve System; and

S.J.Res. 36. Joint resolution authorizing the President of the United States of America to proclaim October 11, 1934, General Pulaski's Memorial Day for the observance and commemoration of the death of Brig. Gen. Casimir Pulaski.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its clerks, announced that the House had passed without amendment the following bills of the Senate:

S. 1328. An act to provide for the donation of certain Army equipment to posts of the American Legion;

S. 1882. An act to authorize the Secretary of the Interior to issue patents for lots to Indians within the Indian village of Taholah, on the Quinalt Indian Reservation, Wash.;

S. 2042. An act to establish a department of physics at the United States Military Academy at West Point, N.Y.;

S. 2442. An act for the protection of the municipal water supply of the city of Salt Lake City, State of Utah;

S. 2794. An act to amend the Longshoremen's and Harbor Workers' Compensation Act with respect to rates of compensation, and for other purposes; and

S. 3397. An act to amend the laws relating to the length of tours of duty in the Tropics and certain foreign stations in the case of officers and enlisted men of the Army, Navy, and Marine Corps, and for other purposes.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H.R. 7306) to amend section 10 of the Act entitled "An act extending the homestead laws and providing for right-of-way for railroads in the District of Alaska, and for other purposes", approved May 14, 1898, as amended.

The message further announced that the House further insisted on its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, and 15 to the bill (H.R. 8617) making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1935, and for other purposes; further insisted on its amendments to Senate amendments numbered 12 and 16 to the bill; agreed to the further conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. LUDLOW, Mr. GRANFIELD, Mr. SANDLIN, Mr. BUCHANAN, Mr. McLEOD, and Mr. SINCLAIR were appointed managers on the part of the House at the further conference.

RECIPROCAL TARIFF AGREEMENTS

The Senate resumed the consideration of the bill (H.R. 8687) to amend the Tariff Act of 1930.

Mr. METCALF. Mr. President, I offer the amendment which I send to the desk. I shall not ask for a vote on it tonight; but I should like to have it read, so that it will appear in the RECORD.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. It is proposed to add, at the end of the bill, the following section:

SEC. —. The provisions of this act shall not be used in a manner which will withdraw protection from American workers against those countries which employ cheap labor or who operate under a standard of living which is lower than that prevailing in this country. To this end, the Bureau of Labor Statistics of the Department of Labor shall be required to ascertain differences in the wages of labor, and whenever the wages in the foreign country are 20 percent or more below the domestic wage no agreement may be consummated.

Mr. METCALF. Mr. President, ordinarily any discussion of this bill would lead to the age-old conflict between protectionists and free-traders. Today, however, the theory of protection is up against a strange and new protagonist. The protectionist is given no argument to combat; he is given no facts to prove right or wrong; he is given no ground upon which to prove the claim that protection is right. Instead, he is face to face with abstract and academic theories born in the brains of economists trained under ultra liberal tutelage.

Men who really accomplish things are men who deal in facts and not in abstractions. One Senator was for years an ardent champion of the theory of tariff for revenue only, until suddenly confronted by facts. He suddenly discovered that the copper workers of his State were face to face with the copper workers of foreign countries, and he found the mines and the smelters closing their doors, and whole towns destitute and decaying. He found the roofs of the copper-mine buildings of his State covered with copper sheeting from Chile, paid for by the very men who go into the bowels of the earth in his State and by the sweat of their brow attempt to compete with the men their earnings support.

Such things are facts, and no amount of theory or international reciprocity can correct them.

I should like to deal in facts as they concern the State of Rhode Island, not particularly because it happens to be my State, but because I am most familiar with it, and because I believe it to be representative of the industrial regions of the United States.

The population of the State of Rhode Island is 687,000, with an average of a little over 4 persons in each family. Two years ago, approximately 400,000 Rhode Islanders received their livelihood from the factory pay rolls. In other words, in excess of 95,000 persons were engaged in the manufacture of products for sale.

By far the largest manufacturing industry in the State of Rhode Island is the production of textiles; and in this pursuit there were 57,087 wage earners. In order of their importance, the textile mills produced worsteds, woolens, cotton goods, dyeing and finishing materials, silk and rayon, and lace.

The Secretary of Agriculture has declared, without objection on the part of any other official of the administration, that the manufacture of finer textiles in this country is inefficient and should be sacrificed in order that Belgium, France, and China may sell their textiles to this country. Specifically mentioned in the category of finer textiles is lace goods, in the manufacture of which are employed some 1,100 people in the State of Rhode Island. Two years ago 7,060 persons were engaged in the production of finer textiles other than lace goods, and of these the new deal has already threatened the jobs of some 2,000.

The second largest industry in Rhode Island is the manufacture of metal goods. Divided in order of importance is the manufacture of textile machinery, foundry goods, electrical machinery, and numerous other plants employing from 100 to 2,500 people. A few of these, particularly those engaged in the manufacture of instruments, ornamental ironwork, nonferrous metal products, and gold and silver metal work, have been marked as victims of reciprocity trade agreements. The employees of these industries are to be forced into competition with the employees in similar industries in foreign countries. While the number of employees thus affected is small in relation to the whole of the United States, they nevertheless constitute an important factor in the small community of Rhode Island. They total in number approximately 785.

The jewelry industry ranks third in importance in Rhode Island. Two years ago there were engaged in the manufacture of this product 6,829 persons. Of these, 438 manufactured optical goods; about 100 manufactured jewelry and instrument cases; 1,028 jewelers' findings; and 5,430 manufactured common jewelry. Parts of the jewelry industry will undoubtedly be slated for destruction under reciprocity treaties with the jewelry-manufacturing countries of Europe. Specifically, the importation of optical goods and of certain kinds of cheap jewelry will be encouraged, according to rumors already prevalent among the "brain trust" in Washington. In this category Rhode Island has approximately 1,100 employees.

My State also produces a quantity of rubber goods, which have already met disastrous competition from Japan. It is my understanding that some of the workers in Rhode Island rubber plants found that they could buy Japanese rubber shoes in the stores of Rhode Island for less money than the actual wages they received for the manufacture of such shoes. Under a reciprocity treaty reducing the tariff on these goods, the workers in the rubber industry of Rhode Island could easily be entirely eliminated. Already one of the largest rubber plants in the State has been forced to close its doors, and the homes of the workers are standing vacant, with hundreds of them receiving relief from the State and Federal Governments.

Under the theory out of which this tariff bill was conceived, a minimum of 5,585 Rhode Island workers would lose their jobs. Eleven hundred of these have for years been engaged in the manufacture of lace goods and have no other means of earning a living. The remainder are engaged in the manufacture of optical goods, jewelry, fine textiles, rubber goods, and certain fine metal products. The total number of persons dependent for their livelihood upon the pay checks of these people is over 20,000. Taking Rhode Island as a basic example of the working of the new tariff bill, we would find the jobs of 5,500 persons destroyed and the capital investments which gave them work made worthless.

In compensation for this act the "new dealers" expect an increase in our foreign trade. That is, in return for the money which we would pay Japan, France, Belgium, and other countries for their lace, rubber goods, silk, and jewelry, we should sell them other products, the manufacture of which would theoretically stimulate industrial activity and give work to additional people. In order for this to be successful it would be necessary for the surviving industries to absorb those persons made idle by reciprocal tariffs. It would be necessary for the woolens, worsteds, and cotton goods factories of Rhode Island to absorb some 1,500 employees who had been engaged in the manufacture of lace and other fine textiles. This is on the basis of employment 2 years ago.

We find that from 1929 to 1931 employment in the manufacturing industries of Rhode Island had decreased by 30,000 persons. Among those 30,000 persons are workers who have for years been trained in those industries which might survive reciprocity treaties. It would, therefore, be in the interest of industrial efficiency, as well as common justice, for the surviving industries to absorb the employees who were idle as a natural result of the depression before they could absorb the employees made idle by the artificial effects of tariff reduction and who would be people trained in other lines. By the use of simple logic anyone can conclude that the failure of 5,500 persons to produce lace or jewelry or rubber in order that foreign countries might sell these commodities in the United States could not by the wildest imagination make a market abroad for more than the actual products manufactured by 5,500 persons of equal productive power.

Even if we assume the theorists to be correct, and find that the woolen and worsted industries or the metal industry or some parts of the jewelry industry are able, by virtue of an increased foreign trade, to employ new workers to the extent of those made unemployed by the act which brought about this new foreign trade, it must follow that they would be drawn from the 30,000 persons who were taken from the pay roll of these industries between 1929 and 2 years ago. The natural result would be that we would have 5,500 unemployed citizens of Rhode Island, who are trained in specialized work, and many would find it too late in life to learn new trades. We would experience in the State of Rhode Island not only the destruction of the capital investment in those factories which would close, but as well, a depression in all other plants as a result of a lack of confidence in their fate from day to day, and from a loss of the margin of profit upon which all industry must depend for its very existence.

This is a most conservative prediction, and is based upon declarations of policy already made by officials of the administration who have designated certain industries in this country as inefficient. Actually the possibility of a loss in the industrial production of Rhode Island is much greater. One administration leader declares that "it ought to be evident that among articles the imports of which total less than 5 percent of domestic production, will be found fertile opportunities for a profitable trade bargaining to open closed markets to our products of farms and factories."

In analyzing this statement one can readily refer to the famous resolution requiring the United States Tariff Commission to furnish a list of such products from which the administration might choose those to be used for bargaining with foreign countries.

Further reiterating the policy of the administration, the Secretary of State declared that:

In shaping its policy and executing its obligations under any agreement, each government should direct its first and greatest efforts toward eliminating the restrictions and reducing the duties which most clearly lack economic justification.

Particularly (a) duties or restrictions which now completely or almost completely exclude foreign competition, such as those which restrict the importation of particular commodities to less than 5 percent of the domestic consumption thereof.

(b) Duties or restrictions on articles whose imports have been substantially curtailed since 1929 as compared with domestic consumption.

This was made a declaration of policy by Secretary Hull at the Economic Conference in London and was again reiterated in the conference at Montevideo.

Thus we have two outstanding members of the administration stating the declaration of policy upon which this tariff bill would operate, and we find in the list of products from which would be drawn articles for trading with foreign countries many commodities manufactured in the State of Rhode Island. Among them are cotton goods, yarns and pile fabrics, wool and worsted goods, and silk and rayon manufactures.

Just what will happen as a result of reciprocal trade agreements in these particular industries cannot be predicted. However, it is significant that the cotton goods which I have mentioned, woven wool fabrics, cotton cloth, wool cloth, and silk fabrics, are on all three lists from which will be drawn articles for reciprocal bargaining. It is not unreasonable to assume that reciprocal treaties will be entered into which would more than offset any possible gain which the major industries might expect from favorable foreign-trade balances. It is a lamentable fact that plants manufacturing these products must go through a period of instability, and that those men who have spent their lives in building up a manufacturing business must have a complete lack of confidence in the acts of their government insofar as the prevention of disastrous foreign competition is concerned.

The State of Rhode Island should regard with serious concern the tremendous increase in importations from abroad. Last year bleached cotton cloth was shipped into the United States in the amount of 21,000,000 square yards, which is a record for all time. In fact it is 60 percent above the previous high record in 1929. Printed, dyed, and colored cotton cloth was admitted into the United States last year in the amount of 15,913,000 square yards, which was an increase of 16 percent above 1932. Cotton floor coverings were imported in the amount of 12,200,000 square yards last year, an increase of 126 percent above the year 1929. Cotton yarns were imported in the amount of 1,631,000 pounds, an increase of 29 percent over the year 1932.

The cotton-goods industries of my State cannot continue to face foreign competition of this nature. The tremendous inflow of cotton manufactures cannot help but make serious inroads on the employment of men in the State, and any hope of recovery will most certainly be retarded for many years should these industries be further forced to curtail their operations by reason of reciprocal tariff agreements entered into by men who have never seen a cotton mill.

As I have said before, the manufacture of wool goods is of tremendous importance to the citizens of Rhode Island. Over 25,000 people are normally employed in the woolen and worsted plants alone. Last year these plants witnessed the alarming spectacle of an increase of 88 percent in importations of wool yarns, 37 percent increase in importations of lightweight worsteds, 35 percent increased admissions of heavyweight worsteds, and 37 percent more general woolen goods. The same thing is true in silk manufactures and in the manufacture of knit wear, where the importations increased in 1933 on a range of from 11 percent to 22 percent.

Rhode Island has for a long time been a leading State in the manufacture of files and screws. A substantial percentage of the output of our factories has gone into the export trade. This business has felt severely the effect of the slump in international trade.

The average exportations of files and rasps from the United States between 1926 and 1930 was 2,261,000 dozen, which fell last year to approximately 1,000,000 dozen. Importation of files from Germany and Switzerland increased steadily from 1920 until the adoption of the present tariff law, after which importations fell off rapidly until at the present time only 30 percent of the number shipped into the United States in 1929 are in competition with the American file industry.

Importations consist of ordinary files from Germany and a class of small, fine files called "Swiss-pattern files" from Switzerland. Production of Swiss-pattern files is a specialty

in United States industry and forms an important factor in the trade. While importations have never seriously endangered industries of this kind, nevertheless, the decrease in importations from 93,000 dozen in 1929, as a result of the Smoot-Hawley tariff, is of considerable importance to the profitable operation of our plants.

A similar situation exists in the manufacture of other small metal products in the United States, all of which are of first importance in the metal industry of Rhode Island. In the manufacture of such metal products the superior workmanship and superior methods of American plants have made it possible for us to compete with foreign countries, even with our higher wage scales. These industries deserve protection, and we should scrutinize with utmost care any move on the part of Washington professors to delve into the complex workings of the industry.

When the effect of the protective tariff is brought down to specific cases we have revealed facts which are alarming to any business man. Importations of that type of commodity produced in the manufacturing regions of the United States are already increasing. In the manufacture of cotton, the manufacturer is forced to add to his cost of production increased pay rolls as a result of code regulations and trade practices; he is forced to curtail his output of goods and at the same time to pay higher taxes and heavier prices for raw materials. Each of these factors is mounting rapidly, and we cannot expect to continue to build up the prices of domestic commodities if we are to compete with foreign countries.

With these facts in mind, I do not see how we can expect early industrial recovery, if we insist upon passing measures like the pending bill.

#### KING HILL IRRIGATION DISTRICT

Mr. BORAH. I ask unanimous consent for the present consideration of Senate bill 3151, to cancel certain Government liens on lands within the King Hill irrigation district, State of Idaho. I spoke to the majority leader about the bill this morning. I think there is no objection to it.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (S. 3151) to cancel certain Government liens on lands within the King Hill irrigation district, State of Idaho, which had been reported from the Committee on Irrigation and Reclamation with an amendment, to strike out all after the enacting clause, and to insert in lieu thereof the following:

That the Secretary of the Interior is hereby authorized to enter into a contract with the King Hill irrigation district, organized under the laws of the State of Idaho, by which said district and the United States shall rescind the agreements between them of March 2, 1926, November 14, 1923, January 11, 1922, June 17, 1920, and December 17, 1917, each party in such rescissory agreement to release the other from all obligations, accrued or to accrue, under the said five agreements, and the United States as a part of said rescissory agreement to quitclaim to the said district all the right, title, interest and estate of the United States in or to said King Hill reclamation project, including the water rights thereof and any real estate acquired or held by the United States in connection therewith.

Mr. BORAH. Mr. President, I do not think it is necessary to enter into an explanation of the bill, further than to say that the measure as it is now on the calendar was drawn in the Interior Department, and has the approval of that Department. It also has the approval of the Reclamation Bureau and the Budget Director. It provides for the cancellation of certain claims on a project in Idaho, the Government having concluded that it does not desire to proceed any further in the construction of the project.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to convey to the King Hill irrigation district, State of Idaho, all the interest of the United States in the King Hill Federal reclamation project, and for other purposes."

## VEHICLES FOR HIRE IN THE DISTRICT OF COLUMBIA

Mr. KING. Mr. President, I desire to make a brief statement with respect to a bill reported from the Committee on the District of Columbia.

As Senators are aware, recently there has been considerable criticism growing out of the fact that there have been numerous accidents as the result of the alleged negligence of taxicab drivers. In some instances, there is no provision for obtaining compensation, as many of them are not financially responsible and do not carry insurance. The matter was inquired into very carefully in the Senate Committee on the District of Columbia, and a bill was unanimously reported providing for the carrying of insurance by those having licenses as public carriers within the District.

I ask unanimous consent for the present consideration of Senate bill 3032, the measure to which I refer.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. McNARY. Mr. President, does the bill involve taxicab bonds?

Mr. KING. It requires of operators and owners that they obtain the usual insurance to operate taxicabs.

Mr. McNARY. Did the committee hold hearings?

Mr. KING. A subcommittee was appointed, and I understand that hearings were held on the subject, and that the question was fully considered.

Mr. McNARY. And the committee unanimously reported the bill?

Mr. KING. Yes.

Mr. McNARY. I have no objection to the consideration of the bill.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Utah for the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (S. 3032) to require financial responsibility of owners and operators of vehicles for hire in the District of Columbia, and for other purposes, which had been reported from the Committee on the District of Columbia with amendments, on page 1, line 4, after the word "require", to strike out "any and all corporations, companies, associations, joint-stock companies, or associations, partnerships, and persons, their lessees, trustees, or receivers, appointed by any court whatsoever", and insert "all owners"; on page 2, line 5, after the word "insurance", to strike out "in a solvent and responsible surety or insurance company authorized to do business in the District of Columbia"; in line 8, after the word "payment", to strike out "to any person"; in line 9, after the word "such", to strike out "corporations, companies, associations, joint-stock companies or associations, partnerships, and persons, their lessees, trustees, or receivers, appointed by any court whatsoever, or renters of their cabs" and insert "owner or his agent, lessee, employee, or renter"; in line 14, before the word "to", to strike out "injury" and insert "damage"; in line 16, after the word "such", to strike out "motor cabs or other vehicles" and insert "vehicle"; in line 18, after the word "terms", to insert "and/"; in line 19, after the word "the", to strike out "Commission" and insert "Public Utilities Commission of the District of Columbia"; on page 3, line 4, after the word "respective", to strike out "judgments. Any such policy of liability insurance shall be issued only by such insurance companies as may have been approved by the Commission, and any such bond or undertaking shall be secured by a corporate surety approved by the Commission. No such bond or policy of insurance may be canceled or terminated unless not less than 20 days prior to such cancellation or termination notice of intention so to do has been filed in writing with the Commission", and to insert "judgments: *Provided, however, That such bond or bonds, or policy or policies, of insurance shall contain a provision for a continuing liability thereunder notwithstanding any recovery thereon*"; at the end of section 1 to insert the following new sections:

SEC. 2. That the bond or bonds, policy or policies, of insurance required by this act shall be issued only by such company or companies as shall be certified to the Public Utilities Commission of the District of Columbia by the superintendent of insurance of the District of Columbia as hereinafter provided, except the superintendent of insurance shall not certify to the Public Utilities Commission that a company issuing insurance policies or surety bonds under the provisions of this act is responsible, unless such company or companies shall have and maintain at all times, in addition to the reserve provided by law, an unimpaired capital, if a stock company, of \$50,000; and if a mutual company, a surplus to the policyholders of not less than \$50,000: *Provided, That such company or companies shall be subject to the approval of the Public Utilities Commission.*

SEC. 3. If, after the issuance of a certificate, it shall appear to the said superintendent that any company or companies are no longer trustworthy or financially capable of meeting their obligations, he shall withdraw from the Public Utilities Commission the certificate theretofore issued by him, and in such event the company or companies shall immediately cease to write any further bond or bonds or policy or policies of insurance under this act.

SEC. 4. No bond or policy of insurance written pursuant to the terms of this act shall be canceled or terminated by any insurance or surety company unless not less than 5 days prior to such termination or cancellation notice of intention to do so has been filed in writing with the commission.

And on page 4, line 19, before the word "It", to insert "Sec. 5"; in line 20, after the word "this", to strike out "paragraph" and insert "act"; in line 25, after the word "this", to strike out "paragraph" and insert "act"; on page 5, line 1, after "Sec.", to strike out "2" and insert "6"; and after line 5 to insert a new section, as follows:

SEC. 7. This act shall take effect and be in force 60 days from and after the passage and approval of this act.

So as to make the bill read:

*Be it enacted, etc., That the Public Utilities Commission of the District of Columbia is hereby directed to require all owners operating, controlling, managing, or renting any passenger motor vehicles for hire in the District of Columbia, except as to operations licensed under paragraph 31 (b) of the act approved July 1, 1932, known as the "license act", and except such common carriers as have been expressly exempted from the jurisdiction of the Commission, to file with the Commission for each motor vehicle to be operated a bond or bonds, policy or policies, of liability insurance conditioned for the payment of any judgment recovered against such owner or his agent, lessee, employee, or renter, for death or for injury to any person or damage to any property, or both, caused in the operation, maintenance, use, or by reason of the defective construction of such vehicle. Any such bond or undertaking or policy of liability insurance shall be in such form and on such terms and/or conditions as the Public Utilities Commission of the District of Columbia may direct: *Provided, That such bond or policy may limit the liability of the surety or insurer on any one judgment to \$2,500 for bodily injuries or death and \$500 for damage to or destruction of property, and all judgments recovered upon claims arising out of the same transaction or transactions connected with the same subject of action to \$5,000 for bodily injuries or death and \$1,000 for damages to or destruction of property, to be apportioned ratably among the judgment creditors according to the amount of their respective judgments: *Provided, however, That such bond or bonds, or policy or policies, of insurance shall contain a provision for a continuing liability thereunder notwithstanding any recovery thereon.***

SEC. 2. That the bond or bonds, policy or policies, of insurance required by this act shall be issued only by such company or companies as shall be certified to the Public Utilities Commission of the District of Columbia by the Superintendent of Insurance of the District of Columbia as hereinafter provided, except the Superintendent of Insurance shall not certify to the Public Utilities Commission that a company issuing insurance policies or surety bonds under the provisions of this act is responsible, unless such company or companies shall have and maintain at all times, in addition to the reserve provided by law, an unimpaired capital, if a stock company, of \$50,000; and if a mutual company, a surplus to the policyholders of not less than \$50,000: *Provided, That such company or companies shall be subject to the approval of the Public Utilities Commission.*

SEC. 3. If, after the issuance of a certificate, it shall appear to the said Superintendent that any company or companies are no longer trustworthy or financially capable of meeting the obligations, he shall withdraw from the Public Utilities Commission the certificate theretofore issued by him, and in such event the company or companies shall immediately cease to write any further bond or bonds, or policy or policies, of insurance under this act.

SEC. 4. No bond or policy of insurance written pursuant to the terms of this act shall be canceled or terminated by any insurance or surety company unless not less than 5 days prior to such termination or cancellation notice of intention so to do has been filed in writing with the Commission.

SEC. 5. It shall be unlawful to operate any vehicle subject to the provisions of this act unless such vehicle shall be covered by an

approved bond or policy of liability insurance as provided herein. The Commission shall have the power to make all reasonable rules and regulations which, in its opinion, are necessary to make effective the purposes of this act.

SEC. 6. Any violation of this act or of the regulations lawfully promulgated thereunder shall be deemed a misdemeanor and upon conviction shall be punishable by a fine of not more than \$300 or by imprisonment for not more than 90 days.

SEC. 7. This act shall take effect and be in force 60 days from and after the passage and approval of this act.

The PRESIDING OFFICER. The question is on agreeing to the amendments of the committee.

The amendments were agreed to.

Mr. KING. Mr. President, without making a full explanation of the measure, I ask to have inserted as a part of my remarks several paragraphs of the report which was submitted by the Senator from Nevada [Mr. McCARRAN], who was chairman of the subcommittee.

The PRESIDING OFFICER. Without objection, it is so ordered.

The matter referred to is as follows:

The purpose of this bill is to require all owners operating, controlling, managing, or renting any passenger motor vehicles for hire in the District of Columbia to file with the Public Utilities Commission of the District of Columbia for each motor vehicle a bond or policy of liability insurance conditioned for the payment of any judgment recovered against such owner for death or for injury to any person or damage to property caused in the operation of such vehicle. Under the present law there is no requirement in the District of Columbia which protects the public from the negligent or careless operation of public vehicles for hire. The enactment of this legislation will eliminate from the public streets many cab owners and operators who are not financially responsible and are judgment-proof. The legislation will likewise prevent many persons from entering the public-utility field who are unreliable and financially unable to meet the demands made upon them in cases where judgments are rendered by the courts.

The bill requires that the owner or operator file with the Public Utilities Commission a bond or policy of liability insurance, but limits the liability of the insurance company or surety on the bond to \$2,500 for bodily injuries or death and \$500 for damage to property, with the further provision that such bond or insurance policy shall contain a provision for a continuing liability notwithstanding any recovery thereon. The bill further provides that the superintendent of insurance of the District of Columbia shall pass upon the bonds or policies of insurance and shall certify to the Public Utilities Commission that the company or companies issuing the bonds or insurance policies are responsible. The bill provides for a penalty for the operation of any motor vehicle for hire without complying with the provisions of the bill.

Approval has been given to the bill by many civic and other organizations of the District of Columbia, namely, the Federation of Citizens' Associations, the Washington Board of Trade, the Washington Chamber of Commerce, and others, as well as by the Public Utilities Commission of the District of Columbia, the Insurance Department, the Corporation Counsel, and the Board of Commissioners of the District of Columbia. The above organizations and bodies, as well as numerous others, endorse and recommend the passage of this legislation.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

#### RECIPROCAL TARIFF AGREEMENTS

The Senate resumed the consideration of the bill (H.R. 8687) to amend the Tariff Act of 1930.

Mr. HARRISON. Mr. President, does the Senator from Louisiana desire to speak on the bill tonight?

Mr. LONG. No.

Mr. HARRISON. Does the Senator from Oregon know of any Senator who does wish to speak at this time?

Mr. McNARY. Not this evening. We shall have one or two speakers tomorrow.

#### RECESS

Mr. HARRISON. Then, Mr. President, I move that the Senate take a recess until 11 o'clock tomorrow morning.

Mr. McNARY. Will not the Senator make that 12 o'clock tomorrow, in view of the fact that there are to be some important committee meetings and conferences?

Mr. HARRISON. Very well, Mr. President. I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 4 o'clock and 58 minutes p.m.) the Senate took a recess until tomorrow, Tuesday, May 22, 1934, at 12 o'clock meridian.

## HOUSE OF REPRESENTATIVES

MONDAY, MAY 21, 1934

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D.D., offered the following prayer:

Merciful God, our Heavenly Father, help us this day to fulfill the duties of our station; to bear any annoyances or trivial irritations; to put kindly construction on unkindly acts; to give of our best to the least; to love even the ungrateful. Enable us to do these things not for the praise of man but for the extension of Thy kingdom in human hearts and homes and for the sake of our Savior, whom we love, and all praise and glory be unto Thee forever. Amen.

The Journal of the proceedings of Thursday, May 17, 1934, and Sunday, May 20, 1934, was read and approved.

#### MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Horne, its enrolling clerk, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 9092. An act to authorize the Secretary of War to lend to the housing committee of the United Confederate Veterans 250 pyramidal tents, complete; fifteen 16- by 80- by 40-foot assembly tents; thirty 11- by 50- by 15-foot hospital-ward tents; 10,000 blankets, olive drab, no. 4; 5,000 canvas cots; 20 field ranges, no. 1; 10 field bake ovens, to be used at the encampment of the United Confederate Veterans, to be held at Chattanooga, Tenn., in June 1934; and

H.R. 9394. An act to authorize the Federal Radio Commission to purchase and enclose additional land at the radio station near Grand Island, Nebr.

The message also announced that the Senate had passed a bill and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 3586. An act for the relief of George A. Fox; and

S.Con.Res. 17. Concurrent resolution requesting the President to return to the Senate the bill (S. 3355) to authorize the coinage of 50-cent pieces in commemoration of the two hundredth anniversary of the birth of Daniel Boone, for the correction of an error therein.

The message also announced that the Senate disagrees to the amendments of the House to the amendments of the Senate to the bill (H.R. 8617) making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1935, and for other purposes, nos. 12 and 16; further insists upon amendments to said bill, nos. 1, 2, 3, 4, 5, 6, and 15, disagreed to by the House; and requests a further conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. TYDINGS, Mr. BYRNES, Mr. COOLIDGE, Mr. HALE, and Mr. TOWNSEND to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4253) for the relief of Laura Goldwater, disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BAILEY, Mr. LOGAN, and Mr. CAPPER to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the joint resolution (H.J.Res. 325) extending for 2 years the time within which American claimants may make application for payment, under the Settlement of War Claims Act of 1928, of awards of the Mixed Claims Commission and the Tripartite Claims Commission, and extending until March 10, 1936, the time within which Hungarian claimants may make application for payment, under the Settlement of War Claims Act of 1928, of awards of the War Claims Arbitrator, disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KING, Mr. GEORGE, Mr. WALSH, Mr. REED, and Mr. COUZENS to be the conferees on the part of the Senate.